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AN
EXAMINATION
OF A
BOOK,

Lately printed by the

QUAKERS;

INTITLED,

A Brief Account, &c. and particularly so far, as
the CLERGY of the Diocese of CAN-
TERBURY are concern'd in it.

The INTRODUCTION.

IT was thought necessary by the *Quakers*, to
pretend at least some Justification, or Ex-
cuse for their own Behaviour, whilst they com-
plain'd of Hardships arising from it. They
could have little Reason to expect *particular*
Privileges, or Exemptions to be granted to them,
without shewing some superior Merit to entitle
them thereto, which they were unable to do;
or to desire, that the Laws, whereby the rest
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of the Nation were govern'd, should be alter'd on *their* Account, and the Clergy be excluded from the common Benefit of the Courts of Justice, without shewing some particular Hardships they were liable to, and had undergone, which might deserve Compassion.

They therefore in their Petition to the Legislature set forth, " That notwithstanding the
 " several Acts of Parliament made for the more
 " easy Recovery of Tithes, &c.—in a summary
 " Way by Warrant from Justices of Peace;
 " yet, as the said People *conscientiously* refuse
 " the Payment thereof, they are not only liable,
 " but many of them have undergone
 " grievous Sufferings, by Prosecutions in the
 " *Exchequer*, Ecclesiastical, and other Courts,
 " to the Imprisonment of their Persons, and
 " the impoverishing, and ruining of them, and
 " their Families, for such small Sums, as are
 " *recoverable by those Acts.*" And in the Preface to the *Brief Account*, publish'd by them, and submitted to the Consideration of the Members of both Houses of Parliament *, they say,
 " That they do profess a *conscientious* Scruple
 " against the Payment of Tithes, and all
 " *forced* Contributions for Maintenance of Ministers,
 " and other religious Uses."

Thus, as their Disobedience to the Laws was to be cover'd with the specious Pretence of Conscience; so, the Hardships they complain'd of were imputed to the Cruelty of " Those
 " (and some of them professing to be Ministers
 " of

* Page 3.

“ of the Gospel of *Peace*) who, altho’ they
 “ might have obtain’d their Rights by easier
 “ Methods, chose † by unnecessary and ex-
 “ pensive Law-Suits, to sacrifice their own
 “ Quiet and Interest to the Oppression, and
 “ Ruin of their Neighbours.”

It will not then be thought foreign to an Examination of the *Brief Account*, so far as it relates to the Clergy of the Diocese of *Canterbury*, to consider *previously*, and enquire into the Foundation of such of *Their* Scruples, whereby the Safety of the Nation, or Property of the Clergy of the Church of *England* in general may be affected.

And I doubt not, but it will appear upon Enquiry, that their *Scruples of Conscience* are void of *common Honesty*; and yet their *Complaints of Oppression* are supported by mere Surmise only, or by downright Falshood.

As the Origin, and End of civil Government are for mutual *Defence* against our common Enemies, and for the Security of *Property* among ourselves; whatever Notions, or Opinions, tho’ sanctified with the Pretence of Religion, and *Conscience*, may be propagated, which are contradictory to those Views; they have no real Foundation either in Scripture, or Reason; but are inconsistent with the Good of Society, and must tend to the Subversion of Government.

If any particular Part of the Community shall in either of these Cases set to themselves

a different Rule of acting from that, which is the general Law; they arrogate thereby to themselves a separate Legislature; they set themselves up, as an independent State, whilst at the same Time they claim, and enjoy the Benefit of all other Laws in common with the rest of the Subjects. Whereas in all civil Matters, it is their Duty to comply with the general Law, so long as it continues in Force, and not to expect an Advantage from their Disobedience, whilst they seek to force their own Laws in Opposition to the Publick.

The Pretence of Conscience in Matters of meer civil Right is vain: the Gospel-Liberty does not exempt us from the Obligation to human Laws, nor is it to be used as a Cloak of Malicioufness.

Were Conscience in some permitted to advance itself against any *particular* Duty, they owe to the Publick, or any *particular* Branch of private Property; others might expect to make use of the same Indulgence in other Parts, until the whole were destroy'd. Single Persons have the same Right, as Numbers; and a general Liberty to every one, under that Pretence of doing what seems good in their own Eyes, must breed Confusion, and make the Law depend on every ones Opinion, or Caprice.

Some Pretence will always be found to give a Sanction to such Mens Actions; and Those, who would have destroy'd all Distinction of Titles, and Subordination in the State, supported themselves with a ridiculous Notion, that *Adam delv'd*

delv'd and *Eve span*; not much unlike those, who invade the Property of the Clergy, because the Apostles had not a settled Maintenance: whilst the Community of Goods among the primitive Christians has been the excuse of others for Rapine, and Plunder. And altho' the Laws of the Land make a great Difference between the taking out of another's Possession what belongs to him, and detaining, or refusing to deliver the Property of another, which is in our Possession, yet in *Conscience* it is the same, and the Injury equal.

Where Numbers are united in the same Principles under the same common Error, the Danger will be still the greater; and it can surely never tend to the publick Good, by making it their Interest, to increase their Strength: as the Community consists of several Parts, the Hurt, which one Part suffers will affect the Whole.

In regard to the Defence of the State against foreign, or domestick Enemies, the *Quakers* openly teach and avow *, “ That it is not lawful for Christians to resist Evil, or to war, or fight *in any Case*.” And their Apologist says †, “ we have suffer'd much in our own Countrey, because we neither could ourselves bear Arms, nor send others in our Place, nor give our Money for buying of Drums, Standards, or other military Attire.”

Tho' *Christ's* Kingdom be not of this World, nor his Religion to be propagated by the Sword; yet

* Robert Barclay's Apol. p. 515. † Page 565. Ed. 1736.

yet the Powers, which are, are ordain'd of God, and the Magistrate may still bear the Sword, and not in Vain. The Laws of Nature, and of Self-defence, still remain ; nor do we cease to be Men by becoming Christians.

It were indeed to be wish'd, that all the World was Christian, and that all Christians followed the Rules of their Profession : Wars would then cease, and the avenging Hand of Justice be ty'd up. But as distinct States, and Kingdoms cannot be supported against the Encroachments, and Invasion of others, but by War, and repelling Force by Force ; the publick Safety is the highest human Law : and the Sword of Justice may be extended by the Prince for the Defence of the State, as well as for the Punishment of Evil-doers, who disobey his Laws : nor does our Religion discharge our Allegiance.

But according to the *Quakers* Doctrine, we are to be left defenceless, whilst others may invade us. Must Christianity be renounc'd, or the Nation expos'd to the Avarice, or Ambition of its foreign Foe ? Is this being faithful, and bearing true Allegiance to his Majesty ? They declare, that they are his loyal and obedient Subjects, whilst they teach their Followers, that they cannot bear Arms, or send others in their stead, for the Defence of his Person and Government ; and exhort, and admonish them to bear their *Testimony* against his Laws.

According to them, should an Enemy, a Pretender to his Crown, and Dignity invade his
Realms,

Realms, his faithful Subjects, who would sacrifice their Lives, and Fortunes in Defence of his Royal Person, and Family, and therein of our Religion, Laws, and Liberties must either basely desert his Service, or forfeit their Title to Christianity. What a Deluge of Misery, and Desolation would this Doctrine let in; if by the Increase of this *Seet*, whose Consciences will not permit them to resist *this Evil*, the Hands of the Government should be weakened?

What their Conduct would be, were their Numbers sufficient to obstruct the publick Service, may easily be foreseen by the late Behaviour of those of *That Persuasion* in *Pennsylvania*, in the present necessary War with *Spain*; where “ the *Quakers* having applied themselves
 “ with great Industry, to obtain an uncommon Majority in the Assembly, tho’ they
 “ were not above one Third of the People in
 “ Number, refused to make any Provision of
 “ Necessaries for the Troops to be rais’d in that
 “ Province, as being a Thing *repugnant to their*
 “ *religious Principles.*” †

It has been very justly observed, * “ That
 “ the *Quakers* are known to be a People, who
 “ have a sort of national Government within
 “ them-

† See a printed Collection of Messages, Answers, Addresses, &c. from that Province. — The Substance of which is set forth in a Note to the Bishop of *Oxford*’s Sermon preached before the Society for *Propagation of the Gospel in foreign Parts*, Febr. 20. 1740-1. p. 17.

* See the Examination, &c. in relation to the Clergy of the Diocese of *London*.

“ themselves. They have their stated Meet-
 “ ings within particular Districts in the Coun-
 “ try: And in *London*, a yearly Meeting of
 “ Deputies, or Representatives from all Parts
 “ of the Kingdom, to treat of the general Con-
 “ cerns of the Body; and a Committee of par-
 “ ticular Persons residing in, or near *London* to
 “ maintain a constant Correspondence with their
 “ Brethren all over the Kingdom.”

How dangerous may this Union be, where
 their Conscience sets different Rules from the
 publick Weal! When they take upon them-
 selves to direct in Matters contrary to the Laws
 of the Land, and to exhort their Followers,
 “ To stand faithful in their ancient and Chri-
 stian Testimony” against what those Laws com-
 mand: Whilst they are thus assembled without
 the King’s Writ, promulge, and put in Ure their
 Constitutions, without his License, or Assent,
 and in Contempt of his Supremacy!

I mention this to shew, in how unfavourable
 a Light they stand in regard to the Publick;
 when put in Competition with the Clergy of
 the Church of *England*, who teach no such
 Doctrines, none, which may prove destructive
 to the State, or injurious to their Neighbour.

Had their Application to the Legislature,
 which has occasioned the several *Examinations*,
 been for a Favour in common with the Rest of
 their Fellow-Subjects, these Principles would
 not have merited it. Protection, and Support
 are mutual; and such Consciences, as disable
 them from assisting the Government in Times
 of

of Danger, can claim no Indulgence from it. And yet they have received Many, in Compassion to their Scruples, when they could be granted without injuring others, or hurting the Community: but when they attempted to invade the settled Property of the Clergy, and covertly under false Insinuations of Sufferings, and hard Usage, under the specious Pretence of an easier Method of recovering Tithes, and other Church-Dues, and more suitable to their tender Consciences, they applied for a Repeal of those Laws, which secure and defend it, to defeat them of their Estates, to which they have a legal Title by the common Laws of the Realm; and to render their Subsistence precarious; the Attempt met with the Fate it deserved, and with which we hope, it will always meet. For the securing the Rights, and Property of the Subject, is another main End of Government, which the Pretence of *Conscience* ought not to weaken.

The *Quakers*, not insensible of the Force of Property, and of the Argument arising therefrom, have endeavour'd to put the Property of the Clergy upon a different footing, as to the Right thereof, from their own; and from the Rest of the Subjects of *England*. They represent it, as a Tax laid upon their Estates for the Maintenance of the Clergy; and hence they stile it *a forced Contribution*, which they insist to be contrary to the Law of God, and which they say, they must obey, *rather than Man*:

and that, as it was given by Parliament, it may at any Time be taken away.

But when we consider the Nature of Tithes, and the legal Right the Clergy have thereto, as a separate and distinct Property from that of the *Quaker*, it will destroy the very Foundation of their Scruple; and it will appear, that they are not requir'd, or compell'd to *contribute* to the Maintenance of the Clergy: the Clergy ask not what is *Theirs*, but only demand what is *their own*. And I don't find, that the *Quakers* have as yet explain'd themselves so far, as to say, that they may conscientiously *take from* the Clergy, what others have given.

I would understand, and I presume they mean, by the Word *contributing* (according to the common Acceptation) giving something *out of our own Stock*, to the Support of another: for otherwise, a Debtor's paying his Creditor, a Tenant his Landlord, the Buyer to him, who sells, might be call'd a Contribution; it being a Payment, without which the other (possibly) cannot be maintain'd: whereas the Application of that Word to the Maintenance of the Clergy, is still more foreign; for the Tithe, which they demand, never was the *Quaker's*, nor can belong to him, without a new Title from the Proprietor.

It is needless therefore to enter into an Enquiry, how far the Ministers of the Gospel have a Right to a Maintenance by the divine Law: whilst it is sufficient to satisfy those of
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our own Communion (and to such it is that the *Quaker* complains, and applies for Redress) that they find it expressly declar'd by the Apostle ||, *that the Lord hath ordain'd that those, who preach the Gospel, should live of the Gospel*: and that the Laws of the Land have settled that Maintenance, which is provided for them.

The *Quaker* has no Reason to object, that in relation to divine Offices, they do not freely give, what they freely have received, since they do not, and cannot by Law refuse to administer in divine Offices to those, who will not, or do not administer to them in that, which is temporal, as well as to those, who do: And this is all, which the Text *, they so much rely upon, requires; and when they can "heal" the Sick, cleanse the Lepers, raise the Dead, "cast out Devils," they may apply it solely to themselves.

That this Maintenance was first assign'd to a Popish Clergy †, is what can scarce deserve an Answer. Does renouncing the Errors of that Religion any ways affect the legal Right to an Estate? Are the Prerogatives of the Crown to be lessen'd, because those, who formerly wore it, were Papists? Have the *Quakers* themselves less Right to their Estates, because derived from Popish Ancestors? Or are the present Clergy of the Church of *England* less so, because reform'd from the Errors and Superstition

|| 1 Cor. ix. 14.

* Matth. x. 8. *Freely ye have received, freely give.*

† A Plea in behalf of the *Quakers*, by Joseph Ollive, p. 49.

of their Predecessors? When they succeed by the same legal Title, and their temporal Inheritance is no ways affected by the erroneous Opinions of those, to whom they succeed.

Nor is it more material to enquire into the Motives of those, who first provided them with their present Maintenance. Doubtless it was the Conviction of their own Consciences, that a suitable Provision ought to be made for those, who administer'd to them, in what was spiritual. It sufficeth, that they had a Power to give; and the Law regards not so much the Motives of the Giver, as the Right, and Power he has of giving.

It has been argued by the *Quakers* *, that
 “ mine Ancestor could not charge me with
 “ that, which doth *not* accrue by reason of
 “ that, which I have from him; nor am I
 “ bound, because mine Ancestor left me the
 “ Land, to pay the Tithe, which is not paid
 “ by reason of the Land, but of the Increase”
 “ ———because (as 'tis said) the tenth Part of
 “ the Increase comes not by the Land, which
 “ descends from the Ancestor, but by the
 “ great Charge, Industry and Labour of the
 “ Husbandman.”

It is no uncommon Case even for a Tenant, to give his Labour, his Charge, and Industry in lieu of a Rent, for the Lands he occupies; this was the most common, the most ancient
 Tenure

* The Great Case of Tithes, publish'd in 1657 by *Anthony Pearson*. Edit. 1732. p. 46, 47.

Tenure in *England*, call'd *Socage Tenure*, from the Plough: A Tenant frequently manures, sows, ploughs, the whole Land for a Part of the Increase; and no one will be abridg'd from giving an Estate, upon the same Terms he might lease it: But when the *Quakers* Ingenuity can produce one Grain of Corn without the Aid of the Land, this Argument may deserve further Consideration.

But supposing no Obligation lay upon the *Quakers* from Scripture to give, will any Text justify them in with-holding, what others have given? Or can they pretend they conscientiously refuse, without shewing, that they justly refuse the Clergy their Dues? Are the *Quakers* alone exempted from that Rule of natural Justice, of rendring to every one their Due? And if it had depended on an Act of Parliament only, that surely is a strong Title, whilst it continues, which they have no Power to controul; nor would it be consistent with the Justice of the Legislature, to take away what had voluntarily been given, unless the Cause had ceased, for which it was given.

So long then, as the Establishment of the Church continues, which cannot be without a legal Provision for its Ministers; Shall it be sufficient for them to say, that they cannot in Conscience comply with that Establishment, and will not therefore pay to the Support of it? This is not the Effect of a Toleration; and that *Act*, which with great Justice, and Clemency gave Ease to scrupulous Consciences, at the
same

same time thought it necessary, and no ways inconsistent therewith, to preserve the Rights of the Established Church.

We are not, I fear, without those, who are Enemies to the other Part of our Constitution, and would be glad to procure an Alteration in our present happy Establishment; should they with equal Sincerity declare, that they could not in *Conscience* contribute to support that Government, which they do not approve of: all, who wish well to it, would with Indignation receive such Scruples, and think no Law severe, that should effectually oblige them to it; and I may under the highest human Authority assert that * “in our present happy Establishment depends the Continuance of our Excellent Constitution in Church and State, and in this Constitution consists the Security of the present Establishment; nothing can Hurt the one, which will not in Proportion undermine, and weaken the other.”

But to consider more distinctly the Nature of Tithe, it is not a Tax upon the Land, or a Contribution from the Owner of it; but is an Estate in itself, separate and distinct from the Land; and is by Law an Inheritance collateral to the Estate of the Land. It does not vest in the Owner of the Land; and as no Person can grant to another a greater *Right*, than he himself has, the Proprietor of the Land cannot grant to his

* His Majesty's most Gracious Speech to both Houses of Parliament, *Apr.* 25. 1741.

his Tenant, cannot lease to his Children, or transfer by sale to another the Right of the Tithe, unless he were likewise Proprietor of the Tithe.

That they are thus separate, and distinct, may appear from many Instances. If an Impropiator hath Lands of his own in the Parish, and Lets them to a Tenant; if he doth not expressly lease the Tithe thereof to him, the Tenant of the Land must pay Tithe to the Impropiator: Or otherwise, if he Lease the Tithes, without reserving the Tithe of his own Estate in the Parish, he must pay Tithe to his Tenant, and this by the known Laws of the Land. So likewise if the Incumbent Lease his Glebe-land, rendring Rent, free from all other Exactions and Demands, the Tenant shall pay Tithe to him, notwithstanding the words, free from all Exactions, and Demands; or if he Lease his Rectory, and Reserve the Glebe, he shall pay Tithe thereof to his Tenant: If he sell the Crop standing, the Purchaser shall pay him his Tithe. If he who has the Land and Tithe, release to another all his Right, Title, and Interest in the Land, the Tithes will not pass thereby: And the Forfeiture of Lands by Felony, or Treason cannot affect the Tithe, because it has a different Proprietor.

Unity of Possession, how long soever it be, does not discharge the Right of Tithe.

How then does the *Quaker* support his Right to the Tithe? Possession alone can undoubtedly

doubtedly give no Title thereto. I don't find, that he pretends to a Divine Right. It must therefore be by the Law of the Land, or he can have no Title, unless his *Conscience* unsupported by the Law of God, or of Man can give him a Title. A very extensive and beneficial Conscience this! does he claim it by Descent from his Ancestor? He cannot, his Ancestor had it not: Is it by Devise, or Gift, no one can give, what is not his own. Is it by Purchase of the Land? He who sold it, had no Right to the Tithe, and could make him no Title to it: If the Landlord leases it him without a Title, he must be answerable to him, for what may be recovered. Thus can the *Quaker* in no View whatever pretend, that the Tithe is his own. And if Tithe were *Jewish*, and *Antichristian*, is it less so, when he takes it, than when he pays it? For it does not cease to be Tithe by his taking it to himself.

If the Law of Tithes were *Jewish*, is it still so, when incorporated into the *English* Constitution? There is no Type, no Mystery in them; and, as the wisest Nations, so far as History can reach, borrow'd their Laws from others, the *Greeks* fetch'd theirs from *Egypt*, and the *Romans* from *Greece*, Can it lessen the Force of an *English* Law, that the *Jews* had the same? Is the Wisdom of it less conspicuous, because copied from that, which had undoubtedly a Divine Original, but has its *legal* Sanction from this voluntary Acceptance of it, and a legal Establishment? Are we under a *Danish*, or a
Norman

Norman Yoke, unless we throw off the Laws we have received from them, and are ingrafted by Usage into our own? Or are those, which the *Roman Conquest of Britain* introduced, to be set aside, lest we should still be under their Subjection? Whatever their Original might be, “ * their Authority is founded merely on “ their being admitted, and received by us; “ which alone gives them their Authoritative “ Essence, and qualifies their Obligation.”

He may perhaps say, that it is not Tithe, until it be separated from the other nine Parts, and that he takes it away, before it is set out. The Proprietor of the Tithe has indeed no distinct Property in it, until it is set out; yet the Terms of the Law necessarily imply, that it is Tithe in the Hands of the Land-owner, before it is separated; for altho’ it be carried away by him without being set out, yet an Action lies against him for with-holding, with-drawing, subtracting his Tithe; whereas no one can with-hold, what has no Existence; and as the Property thereof is distinct and the Estate there inseparable from the *Quaker’s* own, he may with equal Justice, tho’ not with equal Hazard, take away the Corn from off his Neighbour’s Ground, as carry away the Tithe from his own Ground.

We have an Account in our ancient *English* History of some, whose Consciences would not permit them to take the Tithe, to which they themselves could have no Right, though they

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knew

* *Hales’s Hist Common Law of England*, p. 28.

knew not, where to pay it : “ When Pope Gregory the 7th, in the eighth Year of the Conqueror’s Reign, publish’d a Decree against the married Clergy, wherein he commanded, that none should make use of them, or own them as Priests, till they had put away their Wives : This was understood to be against paying them Tithes, as well as against joining with them in any of the divine Offices. And * *Matthew Paris* tells us, that the People, where their Parish Priests were married, thinking themselves prohibited to pay them Tithes ; and not knowing, how else to be discharged ; rather chose to burn them, than keep them to their own Use.” These Scruples were at least void of Self-Interest ; and may shew the strict Notion of a distinct Property between the Land, and the Tithe : whereas the *Quakers* with more than Papal Authority degrade the whole Clergy of *England*, and take their Income to themselves.

If they cannot be convinced, that the Clergy have a *divine Right* to a Maintenance, will it follow from thence, that they have *none* ? Do they content themselves with a *legal Title* to the other nine Parts, and not allow it to be sufficient for a Tenth ? If Prescription, and immemorial Usage had been the only Title, yet that is a good Title at common Law : upon that Foundation most of our Rights, and Liberties

* *Matth. Paris* sub anno 1075. Vide Dean Prideaux’s Original and Right of Tithes, p. 288.

ties depend. Why does the eldest Son inherit the Title, and Estate of his Ancestor? by immemorial Usage. Why are the Lands in some Places equally divided among all the Children, or go to the Youngest? by the immemorial Usage of that Place. The Rights of the Widow, the Suit, and Service the Tenants owe to the Lord of the Mannor, are supported by Usage: the Methods of conveying Property by Descent, or Succession are by Usage, which is the common Law of the Realm; and the Clergy-man, and *Quaker* are equally Subject thereto.

That the Clergy found their Claim to Tithes, as they are now Due, upon the Laws of the Land, cannot be call'd * *dropping their Pretence of a divine Right*: For that would be a Dead Letter to those, who oppose it, and no Action can be founded in the Courts of Justice upon a Text of Scripture only, any more than an Indictment would Lie for Theft, or Murder upon either of the Commandments in the Decalogue: yet the divine Precept will not fail to govern the truly conscientious without the Aid of human Laws. It cannot surely weaken the Rights of the Clergy, if they have the same legal Title thereto, as any other Subject of *England* has to his Estate.

The Laws of the Land are the only Rule, by which Property is governed: If there be any Doubt arising upon those Laws, any Variety in

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* Remarks on a Defence of the Examination, &c. so far as the Clergy of the Diocese of *Litchfield* and *Coventry* are concern'd.

the Meaning, or Difficulty in the Construction of them, there are Sages of the Law, the learned Judges, who by the Constitution of the Realm under his Majesty's Authority are the proper Interpreters of them, to resolve the Doubts, and settle the Difficulties, which may arise; and to these Recourse may be had. But how precarious would Property be, if it were to depend on the various Interpretations, which every Sect, or every individual Person of a Sect might make of a Text of Scripture, of the Truth, and Propriety of which Interpretation, they may under the Liberty of Conscience insist, that they alone are the Judges? And thus in every Case of Property, make themselves Judges in their own Cause.

The Clergy's Right to Tithe is as ancient, as the Monarchy, and coeval with our Constitution: It had its Commencement from the voluntary Gift of the Owners of the Lands, confirm'd by several † Kings in the General Councils of the Realm: Which Laws were collected together by *Edward* the Confessor before the Conquest. By these Laws, Tithes are Enjoin'd to be paid in as full, and extensive a manner, as they are any where now demanded. After Some Interruption upon the Conquest, these Rights together with the *English* Liberties were confirmed by *Magna Charta*, and that Charter

† It appears by the Laws and Ordinances of ancient Kings, and especially of King *Alfred*, that the first Kings of this Realm had all the Lands of *England* in Demefne. *Coke Little. Book I. Chap. 9. Sect. 73. fol. 58.*

Charter by above Thirty succeeding Parliaments. All the Kings, and Queens from the Conquest to the Revolution were sworn to the Observance of St. *Edward's* Laws. At the Reformation new, and stricter Laws were made for enforcing the Payment of Tithes. Upon the Revolution, when the Coronation Oath was altered †, by reason, that “ it had heretofore been framed in
 “ doubtful Words, and Expressions with relation to ancient Laws, and Constitutions then
 “ unknown,” it was Enacted, That every King and Queen, who shall succeed to the Imperial Crown of this Realm, shall swear, That they “ will preserve unto the Bishops, and Clergy of this Realm, and to the Churches committed to their Charge, all such Rights, and
 “ Privileges, as by Law do, and shall appertain to them, or any of them.”

Thus then it stands upon the Principles of the Revolution: Thus not weakened, but confirm'd by the Act of Toleration. Yet after a continued Usage of 900 Years these fundamental Laws of our Constitution thus settled, thus confirmed are attempted to be weakened by the *Quakers* under a Pretence, that they *conscientiously refuse* to obey them. They should consider, that while they undermine the Foundation, that supports the Rights of the Clergy, they weaken That, on which their own Liberties and Properties depend.

I may here take notice of the Date of their first Letter of Exhortation from the General Assembly

† 1 *Will. and Mary*, cap. 6.

Assembly (at least that we meet with) against Payment of Tithes, which is very remarkable, and to which the others refer. The yearly Meeting of *Quakers* in 1687, which had agreed upon, and presented a flattering Address to the late King *James*, complimenting him upon that, which had caused a Terror to the Nation in general, his exercising a dispensing Power with the Laws of the Land; thought it a proper Time for *Them* likewise to exercise that *Power*, they had flattered in their Prince. 'Tis then the Brethren are exhorted and admonished, to bear their Testimony against the *Anti-christian* Payments (as they stile them) of Tithes. They well hoped to reap some Advantage from the general Distress: And tho' by the happy Revolution, which succeeded, our Constitution both in Church, and State were preserved; they have still continued to press it upon the Consciences of their Followers contrary to the very Terms of the Toleration; declaring thereby (as has been justly observed by a late accurate, and judicious Writer, who has traced them thro' their several Mazes of Subtilty, Prevarication, and Slander, and set their Veracity in a clear and *open Light*; and who, altho' it hath been vainly attempted, is still unanswered, and unanswerable *) " That they are
 " come to a fix'd Resolution, not to *give way*
 " to the *Law*, in order to make the *Law* give
 " *way to them.*"

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* Examination, &c. in Defence of the Clergy of the Diocese of *York*, p. 110.

The *Quakers* may perhaps say, That their Application to Parliament, was not to take away any of the Rights of the Clergy; but only to obtain an *easier* Method of being compell'd to pay, what they conscientiously refuse. 'Tis true, their Petition went no further; it would no more have serv'd the Purpose of introducing their Request, to have told the *whole* of their View, than it would, to tell the *whole* Truth, to support their Complaints. And they might be well assured, that had they struck *directly* at the Rights of the Clergy, they could not have expected the least Countenance from the Legislature.

But that they had further Views, they freely own: For when they are told, That what they suggested in Recommendation of themselves, and their Cause to the Two Houses of Parliament, evidently shew'd, that their Views do not finally terminate, and rest in the more easy Recovery of Tithes, and Dues, it is pertly enough answered †, “What a Discovery is this! Can any Man in Reason think, that the *Quakers* Judgment concerning Tithes depends on the Manner of them.” They declare them to be a *Jewish* Burthen, and think it no Objection, that “they have *ultimate Views*, *viz.* — distant Hopes of laying them down at their Journey's End.” And can any Man in Reason imagine, that their Application tend-
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† Remarks on a Defence of the Examination—relating to the Clergy of the Diocese of *London*, p. 30.

ed only to the obtaining a present Relief, and not as a Step, which might lead to their *Journey's End*? Could they, while they assert, that they conscientiously refuse to pay, at the same time under those Scruples solicit the procuring an Act to render more effectual the Laws now in being for the more easy Recovery of Tithes, unless with this Equivocation; with more ease to themselves, and to facilitate their *ultimate Views*? And not effectually to be compelled to pay, or make Satisfaction for their Tithes. They desire to choose in what manner they may be compell'd, who ought to pay without Compulsion: And yet, if they are to be compell'd in any way, it would give no Ease to their Scruples; so that their Hopes could only be, that by an Alteration of the Law in their Favour they might avoid paying.

They therefore under Pretence of Hardships, which might move Compassion, sought to confine the Clergy to an ineffectual Remedy, and to take from them all Recourse to the Courts of Justice, when their Property should be unjustly with-held: For as where there is a Right, there must be a Remedy, the *ultimate View* of taking away the one was to destroy the other.

Wherefore otherwise are they desirous of declining the Courts of Judicature, where the Magistrate has full Power to execute Justice, and to maintain Truth? Where the *Quaker* cannot suffer with Justice, and Truth on his side, nor can his Adversary prevail thro' Oppression.

Oppression and Wrong. Have they not themselves in all Cases relating to their Estates, and Liberties the same Redress, as the rest of the Subjects; and why should the Clergy be excluded in Relation to theirs? If the *Quakers* will set themselves in Opposition to the Law, and set it at Defiance in Matters of Right, and Property, they cannot complain of Hardships, nor are the Courts of Justice to blame; they may avoid the Inconveniences, if they please by a Compliance, and it is a Maxim both in the Law, and Reason, that he who suffers thro' his own Fault cannot be injured.

But they say it is not their Fault, they follow the Dictates of their Conscience, and cannot comply with what the Law directs, † “ that “ they Christianly submit to the Penalties of “ the Law, that they may keep their Consciences conformable to the *Precept* of the Gospel.” This necessarily leads the Enquiry, whether it be not meerly a Pretence, whether, as the Statute expresses it, their Scruples are not ‡ pretended; as the Gospel gives no Rule for Inheritances, but leaves it to the Powers that are, and requires our Obedience to them.

As a conscientious Refusal, must necessarily imply the Demand to be unjust; in the Defence therefore of their Attempt, and in order to shew, that their Refusal is conscientious, they have thought it necessary expressly to attack
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† Remarks on a Defence of the Exam. of the Diocese of *Litchfield* and *Coventry*.

‡ 7 and 8 *Will. and Mary*.

those Rights of the Clergy, and to assert in themselves a Property thereto: And otherwise I cannot see, how they will avoid the Censure, which their † Apologist makes; and with great Reason, on the Anabaptists of *Munster* “who would force their Neighbours to share their “ Estates with them.” This he calls a *wild Notion*, and says, that “it evidently appears to “ proceed from Pride, and Covetousness, and “ not from Purity, or Conscience.” A Pretence of Conscience by his own Concession is not sufficient to Justify such *wild Notions*, as these: And yet those Anabaptists call’d them *Conscience*, and really suffer’d for them; and were sincere, if suffering be a full Proof of Sincerity.

If what is claim’d by the Clergy for a Maintenance be not the *Quakers* own Estate, is the Notion less wild, is it less void of *Purity*, or *Conscience*? Or does it not evidently appear to proceed from Pride, and Covetousness, whilst they detain the whole, that lies in their Power, and will not permit the Clergy to have even a Share of their own Estates?

That the *Quakers* can have no Right to the Tithe by the Laws of the Land, has already been observ’d, and altho’ they do not tell us, upon what Law this Claim of theirs is founded; nor does any such Law appear; unless, what is promulg’d from their own Assemblies, may be look’d upon as Law by them, yet when they would avoid the Imputation of setting up a Right upon a Plea of Conscience to another
Man’s

† *Robert Barclay’s Apology*, p. 488. Ed. 1736.

Man's Estate, they claim it, as their own Estate. And this Claim is professedly made on their behalf by a Writer on their Side, who declares, that he is one of *that* People, that he has had a long Converse with them, and their Writings, and a Knowledge of their Affairs; that he was thereby induced to undertake a particular Examination of the Papers relating to the Tithe Bill, * " having read the several Answers, " which were publish'd without the *Quakers* " Knowledge, and which do not fully defend " them in the Points wherein they are more " nearly concern'd, their *Conscience*, and *Vera-* " *city*."

Upon this Head of the Property in Tithes, speaking of the Parson he says, † "'Tis his " Mistake to call the Tithes his own; they are " the Farmer's, and tho' the Law gives the " Parson a Liberty to take them, yet the " Owner never having received any Considera- " tion, the Parson in possessing himself of " them is but a *legal Invader* of another Man's " Property." Again, || " He possesses him- " self of that, which he can shew no Title to, " and then——there must needs be another " Owner, which is the *Quaker*, who has " doubtless a *natural Right* to the Produce of " his own Land, his own Seed, his own La- " bour." Thus likewise in ‡ another place, " The Parson having no Title to Tithes, either

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* A Plea on behalf of the People call'd *Quakers*, &c. by Joseph Ollive, 1737. p. 1.

† Page 43.

|| Page 31.

‡ Page 53.

“ by Inheritance, or Purchase, or Gift of the
 “ Owner; his pretended Right to them is no
 “ other than A LEGAL INVASION OF ANO-
 “ THER MAN'S PROPERTY: And the Qua-
 “ ker may with a good Conscience keep the
 “ Tithes to his own Use, *they being his own.*”
 What he means by a *legal Invasion*, will be difficult to explain, unless it be by the same Figure, in which he speaks of the *Quakers Veracity*.

Is the Title then to the Tithes thus claim'd by them founded in Law, or upon the Plea of Conscience? Not in Law, for tho' they call it an *Invasion* by the Clergy, yet they admit it to be *legal*: 'Tis therefore upon Conscience only. The Clergy are taxed to the Government for the Tithes, and Offerings, which they refuse to pay, and they are made expressly a Part of the Charge upon them, in their Payments of First-Fruits, and Tenths: They grudge not to pay towards the Support of the Government, to which they owe their Protection; but can it be imagined, that they are taxed for the Property of another? May the *Quaker* with a good Conscience keep the Tithes to his own Use, and suffer the Clergyman to be taxed for them? And yet they have never offered to them, even what they have thus advanced for Taxes, but scruple not to detain the whole; and this under the Pretence of *Conscience*.

When they apply'd to the Legislature, they durst not advance such *wild Notions*, but cover'd themselves with the Pretence of Conscience,

science without any Explanation, and by an useful Brevity conceal'd, what their Defender has publish'd to the World: here the Mask is lay'd aside, and they claim the Tithes, as their own, and censure the Laws, as an Invasion of their Property. Whatever Pretence they may have to an immediate Inspiration, they had better restrain it to Matters of a spiritual Nature, where their Conscience may be their Judge: they have been grossly mistaken, when they apply it to the Laws of the Land, in which there are proper Judges to direct *that* Conscience, tho' they would avoid their Authority.

I have endeavour'd to convince them of this Mistake, (tho' possibly it may be † " fighting against what is *invincible*," that is, their *Obstinacy*) by shewing, that the Tithe is an Estate separate, and distinct from the Land, and that it can't be transfer'd, but by the Proprietor. An Estate may undoubtedly go in Succession, as well as by Descent, and the Incumbent has the legal Possession thereof given him in such Form, as the Law requires. The *Quaker* indeed did not give, or sell his Right, he had it from a surer Hand; from those, who were Owners of that Land before the *Quaker* had any Title to it: derived down to him by the Laws of the Land, and by a legal Possession.

Whilst thus the Property of the Clergy of the establish'd Church stands, at least upon an equal Footing with the Rest of the Subjects;
it

† Remarks on the Defence of the Exam. *Litchf.* and *Gov.*
p. 20.

it may be hoped, they will be intitled to equal Favour, and Protection. And as they no ways envy, or interrupt the *Quakers* in the Benefit of the *Toleration*, in serving God in their own way, they may reasonably expect, that the *Quakers* will in Return *Tolerate* them in the Enjoyment of their own Estates; and not think they do God good Service in with-holding from them their Property, and what by the Laws of the Land becomes their Due, only because they are of a different Persuasion from them; for no ones Conscience can give him a Right, to do wrong to another.

But their Injustice stops not here, the Patron is injured in his Inheritance, and even the King himself, whether he presents in Right of his Crown, or as supreme Patron by Way of Lapse, suffers in his Patronage, whilst they unjustly detain that Estate, the Title to which is obtain'd by Virtue of his Presentation.

The Law excludes the Clergy from the common Ways of Maintenance by Trades, or other Occupations, that they may attend their Duty, and has allotted them their Subsistence: yet the *Quaker* with-holds it, and as far as his dispensing Power extends, decrees they must Work, or starve. Thus the Clergyman suffers thro' their Scruples, whilst they themselves are Gainers. If Persecution upon Account of Conscience be unjust, how can that Conscience be void of Offence, that turns Persecutor?

Upon what Foundation they can say, they conscientiously refuse to pay the Lay Impropriator

ator his Dues, is not easy to imagine: And yet the Compilers of the brief Account have swell'd it with Sufferings from them: It seems to be from Antipathy to the Name of Tithes, and no one can expect a Reason for Antipathies. It is well known, that these are not allotted for the *Maintenance of Ministers*, or other *religious Uses*; but the Property thereof is derived to them from the Crown by original Grant, with mesne Conveyances by Purchase, or Descent to the present Possessors, in the Manner the *Quakers* allow of. And altho' their Title be not so ancient, as that of the Clergy, it stands supported by several Acts of Parliament.

But these Estates, they say, were heretofore belonging to the Clergy, and even still are generally Subject to Payments toward their Support. Will they refuse to pay Rent to their Landlords for Estates, which were formerly held by military Service, and some Payments still perhaps made from them to the Crown upon that Account, because their Principles allow not War? Or is it from a Scruple of Conscience, that they would free the Impropiators, from what they call a *Jewish Burthen*, by taking away their Estates?

In these they will find a further Instance, that the Tithes are a separate, and distinct Estate from the Land: For when those Corporations, to which they had been appropriated, were dissolv'd, they did not fall to the Owners of the Land, but such of them, as had not been surrender'd, having before been alienated from the
Parochial

Parochial Clergy, were granted to the Crown, having no legal Proprietor, and from the Crown the present Possessors derive their Title.

Altho' in the Preface to the *Brief Account*, they refer to several Texts, and Authorities to shew, " that their Scruples appear not to be ill-grounded ;" yet none of them, as I can see, are any ways applicable to their Refusal of *Church Rates* : And yet these likewise are inserted, as the Occasions of suffering for Conscience sake. These are Taxes laid on the *Person* by reason of the *Land* he occupies. They are for the Repair of those Buildings, which, upon their first Erection, the Parish undertook to repair, and which the Law has directed. They are made by the Consent of the major Part of the Vestry assembled : And altho' the *Quaker's* Conscience will not permit him to worship there, yet what Prohibition is there in Scripture from paying to a publick Tax. The Difference of Persuasion is no Reason to refuse ; and we find, that when Application was made to our Blessed Saviour in behalf of the Centurion, that he would heal his Servant, it was said in Recommendation of him, who was a *Roman*, that * *he loved our Nation, and hath built us a Synagogue.*

Upon this Head I don't find, that their Apologist has labour'd in their Defence : And if the Sincerity of some, who refuse, may appear by their suffering, we hope the Sincerity of others is no less evident from their voluntary
Compli-

* Luke vii. 5.

Compliance; whilst many of them serve the Office of Church-Wardens, and upon their Affirmation, declare that they will faithfully perform it. Do they expect to be repaid, what they expend on the Church Account? This must be done by a Rate. Or are they willing to pay for it out of their own Purse? This will not be less inconsistent with that Principle.

Let them observe the Behaviour of their *London Teachers*, and see, if they can find any of them, who rather than to use a different, and more expensive Fuel, have not chosen to pay the Tax upon Coals, which was expressly laid for the finishing *St Paul's*, repairing of *Westminster Abbey*, and building the fifty new Churches. Will they say in this Case, that * perhaps the Men live not up to their Profession, but may act against their Conscience through the Terrors of Ruin, and Imprisonment? No, the Act is voluntary.

I have thus far examined the Foundation of their Scruples, in Order to shew, that they are upon the same footing with all other Detainers of their Neighbour's Property: And altho' the only Scruples, for which by this Application they have desired an Indulgence, are in Relation to the Dues of the Church, and Clergy; that they have still many more, which are inconsistent

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† Vindic. of the *Brief Account*, &c. in relation to the Clergy of the Diocese of *London*, p. 116. and Remarks on the Defence of the Exam. &c. relating to the said Diocese, p. 32.

with the general Good of the Community, of which they are Members, for which their tender Consciences *will still* want Relief. And they were never found wanting to themselves in any Way to obtain their Ends, altho' it were by supporting the Violence, and Rapine of a Protector, or flattering the dispensing Power of an arbitrary Prince. May their *ultimate Views* be at as great a Distance, as these are from Us under our present happy Establishment.

They have a Government within a Government, their Records are private, and the extent of their Decrees unknown: They set Rules for their own Sect in Opposition to the Laws of the Realm, which they enforce on the Consciences of their Followers, even in Matters of private Property; and under this Pretence of *Conscience*, become *illegal Invaders* of the Rights of their Fellow-Subjects, whilst by an obstinate Perseverance even to Suffering, they defy the Power of the Law, and render its Sanctions ineffectual; they would turn the Edge of it upon those, it was made to defend, and plead their Disobedience, as a Motive for Compassion; tho' Compassion to the Wrong-Doer, is Cruelty to the Injured. If they cannot say, they justly refuse the Clergy their Dues, they cannot complain of Compulsion: They may redress themselves by becoming honest, when they quit their *wild Notions*, and are convinced, that whilst they are *Unjust*, they cannot be *Conscientious*.

The

*The Insufficiency of the Acts 7, and 8.**W. 3. to secure the Property of the Clergy, and the Falshood, and Injustice of the Quakers Charge on them of Oppression.*

ALtho' Conscience can give no Man a Title to another's Estate, yet setting up a Claim upon that Pretence, is no less dangerous to Society, than open Violence, or private Fraud; both as it hardens the Wrong-Doer, and lessens the Ignominy, which naturally attends on Acts of Injustice: It encourages others to follow the Example, while they see a Person, who deserves Punishment, Pride himself in the Injury he has done; and throw the Scandal of Oppression upon the Injured, when they seek redress.

This Nation has by sad Experience found the Effects of such Principles, when the Law was too weak to suppress them; when the Crown, the Nobility, the Clergy, the Estates, and Property of the Subjects of *England* fell a Sacrifice to this Idol; and the Pretence of Conscience alone was thought a sufficient Excuse, and Support of the greatest of Crimes.

And where this Pretence is set up, in Opposition to the Law, it necessarily follows, that it must either be forced to give Way, or it will over-power, and suppress the Law; for Contrarieties cannot subsist together: and the

Law has no other Way of supporting itself, but by the Power of inflicting Penalties, and making those feel its Severity, who will not obey its Precepts. He, who Robs his Neighbour's Grounds, does it privately, conceals the Theft for Fear not only of Punishment, but Shame; and if discovered, his Friends will cast him off; his Acquaintance will avoid him, and even those, who are as bad, as himself, will frequently shun his Company, for Fear of being suspected; but when unjust Actions are sanctified with the Name of Conscience, he glories in his Iniquity, his Reputation amongst his Friends of the same bad Principles increases with his Suffering, he is caress'd, and supported by them: He thereby avoids the Shame, and defeats the Purpose of the Law, of forcing a Compliance; and by thus bearing his Testimony against it, induces others to do the like: whilst those, who are injur'd, by finding their Remedy ineffectual, and to avoid the Censure of wanting Compassion from such, as are either gainers by it, or at least feel nothing of the Loss, are frequently obliged to submit to it. Where the Property of our Neighbour is invaded, it is a vain Pretence, that by submitting to the Penalties of the Law we can keep our Consciences, conformable to the Precepts of the Gospel, without making satisfaction to those, we have injured. If suffering for Invasion of Property alone were sufficient; the Sessions Papers could furnish out a longer List of Confessors in a shorter Space of Time, than the *Brief Account* contains.

However

However Sufferings of any kind, altho' deserved, may move Compassion in a private Breast, yet those, who make, or execute the Laws cannot with Justice shew it: It ceases to be a Law, when it loses its Sanction; and a Right is destroy'd, where it cannot be supported.

Though Punishments should in common Cases be adequate to the Offence, yet the Wisdom of the Legislature has found it necessary, either from the frequency of the Crime, the Stubbornness of the Offender, the prejudicial Consequences of the Offence to the Property of the Subject, and to prevent its Increase in many Cases, which, if consider'd singly, might not deserve it, to increase its Severity to a great Degree—sometimes for even trivial Sums. And yet the highest Punishment in criminal Cases is, where the Party defies the Authority of the Court, and will not take his Tryal. Here the Prisoner, who might possibly upon that Tryal not be found guilty, shall suffer in a more terrible Manner, than the worst of Criminals, who has been found so by his Country.

In civil Cases the highest Offence likewise is, that of Contempt of the Authority of the Court; as it stops the Course of Justice, and defies the Power of the Magistrate: And this is in all Cases still the same, whether the Matter in Contest be great, or small, whether the Suit might in the Event prove just, or unjust; and he, who suffers upon this Account, can blame neither his Adversary, nor the Law; but his own Obstinacy only.

And

And yet, when the *Quakers* are told, "That
 " the greatest Part of their pretended Suffer-
 " ings arose from Attachments for Contempt
 " of his Majesty's Authority in his several
 " Courts of Judicature; that they cannot be
 " said to be brought on them by the Clergy,
 " when they are occasion'd by their own Per-
 " verseness, in carrying on an Opposition to
 " the Law of their Country." They reply,
 * " How came they under the Cognizance of
 " the Courts of Judicature? Were they not
 " brought there at the Suit of the Clergy?
 " The original Cause of their Sufferings did
 " not arise from the Courts, but from the Cler-
 " gy, who would now lay the Blame of their
 " Doings upon the Courts. 'Tis a stale Arti-
 " fice of the Clergy to call the Assistance of
 " the secular Magistrate into their Service, and
 " afterwards to express their Gratitude by
 " transferring the Odium of the Prosecution
 " from themselves upon those, whom they
 " employed therein."

As to the Reflections contain'd in this com-
 pendious Invective, so far, as they relate to the
 Courts of Judicature, I shall take no notice:
 They rather deserve Correction from the Ma-
 gistrate, than from a private Pen; whilst those,
 who arraign the Justice of the Nation for their
 own Contempt, cannot but bring an Odium on
 themselves.

The

* Vindication of the *Brief Account*, in relation to the Clergy
 of the Diocese of *Litchfield* and *Coventry*. Append. p. 89.

Remarks on the Defence of the Exam. in relation to the
 Clergy of the said Diocese, p. 5.

The Method of these Replies has altogether been to convey stronger Ideas to the Reader's Imagination, than can be supported by Truth, or Reason; or than they dare in Words express; the common Case of those, who libel a Government, or reflect on the Courts of Justice! Do not they enjoy the Benefit of the Toleration in its fullest Extent? Will nothing satisfy their Conscience, but the Power of injuring their Neighbour in his Property? Is there no Difference between those sanguinary Laws merely upon Account of religious Opinions, and that Coertion that is absolutely necessary in all civil Causes? No Difference between Attachments for Contempt, or Writs of Rebellion, and Writs *De Hæretico comburendo*?

But it is a stale Artifice of the *Quakers*, to throw Reflections upon the Reformed Clergy, from what was the Effect of the Pride, and Cruelty of the Church of *Rome*: When by the Piety, and Learning of our first Reformers, we have not only been freed from those Clouds of Error; but to the steady Adherence of the Clergy of *England* to our excellent Constitution both in Church, and State, next to God, and our great Deliverer, is chiefly owing the Happiness, we enjoy under our present Establishment: while the *Quakers* basely deserting the Cause of Religion, and Liberty would again have sacrificed the Nation to a Popish Power, and have brought on us those Calamities, they would now charge upon the Clergy, and the Courts of Justice: Their short-sighted Views
went

went no farther than their present Interest; in which had they succeeded, before this they would have lost not only their Liberty of Conscience, but even the Power of abusing the Clergy: A Power not intended them by the Toleration.

The Charge upon the Clergy comprized in the above Answer, *viz.* That the *Quakers* Imprisonment for Contempt, from whence the Odium on the Courts of Justice arises, is owing to *Their* bringing them thither, may occasion this Observation, That altho' so many Instances are given in the *Brief Account* of Imprisonments, so great Complaints made of Injury, and Oppression from Proceedings call'd Ruinous, and Destructive, together with a long List of such Imprisonments annex'd; yet no mention is made, that any single Instance was for Contempt, when most of them will appear to have been so. How fair this Representation is, let the Reader judge.

But the Question will be, Had the Clergy a Right to bring them into these Courts of Judicature? (Whether they had a more easy Method will be the Subject of a following Inquiry) Undoubtedly they had by the known Laws of the Land. Were the *Quakers* obliged by those Laws to appear, and to answer? It can't be denied. What is then required from the Hands of Justice, but to compel the *Quakers* to appear, and answer; which by Law they ought to do, and which the Clergy have a Right to require? What Odium can arise from this?

But

But the *Quaker* says, we conscientiously refuse to pay Tithe: The Cloak is here too short to cover them, (I am not at present speaking of Decrees for Contempt in not paying, but in not appearing, or answering) Have they any Text of Scripture, they can strain so far, as to say, they are forbid to appear, and answer in a Court of Justice? They have not yet produc'd it. Will they, who are such Lovers of Truth, then go to Prison, rather than discover it? this is all, that is required by an Answer. They may deny both the Right, and the Fact, if it be not consistent with the Truth: but they stand in Contempt, without the Pretence of Justice, or Conscience, and would then throw an Odium upon the Clergy, and Courts of Judicature, for what they suffer by it, and those, who would support the Laws, are stiled Advocates for the Methods of Oppression.

But even their Contempt in not paying upon a final Decree, how is this to be charged on the Clergy? Where a Man is doing an illegal Act, the Law will impute to him the Consequences of it, as if they had originally intended it: Thus if he intends to wound a Man, and kills him, it is Murder from Malice forethought: But whilst he is doing, what is lawful, he cannot be charged with intending the Consequences, which accidentally may arise from it.

The Intention of the Clergyman in bringing his Suit, is to obtain his just Dues; he has a Decree in his Favour, with which the *Qua-*

ker will not comply ; and is committed to Prison : Can what he suffers by his Imprisonment be said to be owing to the Intention of the Clergyman, or to his own Obstinacy, supposing him able to pay ? Certainly to the latter. The Clergyman intends, and hopes he will pay ; he pays to the Militia, tho' he pretends Conscience against it, and that without Compulsion : Many of them do the same in Church Rates, and even in the same Case of Tithes ; why should he presume, that his imaginary Conscience will be more hurt by it, than that of his Friends and Neighbours ? Whilst he by an odd Kind of Supererogation claims a Merit from his Imprisonment, yet he would transfer the Odium of his Contempt on the Clergy : Should he not rather take the Advice, our Great Master gives him, when the Gospel tells him the Consequence, * *Verily I say unto thee, that thou shalt by no means come out thence, till thou hast paid the uttermost Farthing.*

Thus under a declared Odium, or Hatred to the Courts of Justice, and the Laws which support the Property of the Clergy, they apply'd to the Legislature for a Repeal of the one, and an Exemption from the other, under the Pretence of Hardships, they had suffer'd. They own, they refuse to pay, but the Methods are too severe, whereby they are forced to comply ; and therefore desire a more easy Way of recovering Tithes, &c. If this easy Way could be found, Do they promise to comply with it ?

No,

* Matth. v. 26.

No, far otherwise ; Such Triflers are they with the Legislature ; they will evade it, if possible ; they will still do their utmost to avoid complying with the Clergy's just Demands : For the whole Foundation of their Defence is, That all the Laws, which have been made are, and which can be made, will be unjust, and contrary to the Laws of God, and Dictates of their Conscience : They would have the Advantage of the Law in all other Cases, but would not be subject to it in this : They would enjoy the full Benefit of the Toleration, but will not comply with the Terms, on which it was granted : They plainly acknowledge, that unless the Property of the Clergy be taken from them ; nay further, be given to themselves ; for otherwise it would only bring in more Lay-Impropropriations, they never can be easy. Was there ever such an Application by any Sect in any Place, or Age, made to a Legislature?

In the Case of the insolvent Debtors the Parliament has with great Justice, often shewn Compassion ; and even at their Petition. But it has been, where they have not been able, not where they have been unwilling to satisfy their Creditors ; and upon the express Condition, even under the highest Penalties, of making all the Satisfaction, that lay in their Power ; whilst others, as the Case too frequently happen'd, who gave up their Liberty, to defraud their Creditors, and in Confinement enjoy'd the Income of their Estates, were no Par-

takers of this Benefit, but have been compell'd to give up all in Justice to the Creditors.

It will never be beneath the Justice, and Wisdom of the Legislature, to provide the easiest Methods for the Subjects preserving their Rights, or recovering their Property: But it has never been thought consistent with either, to destroy those Remedies, which have been found effectual, and to substitute others, which are insufficient in their Stead. Experience teaches us an easier Remedy, which is effectual, will of Course prevail, and exclude all others; whilst in Time those, which are more difficult, will grow into disuse without being repeal'd; and we now rarely hear of Writs of Right, or real Actions being brought, while possessory ones prove as effectual.

In the Laws, which have been made, for preventing of Frauds committed by Tenants, and to enable the Landlords more easily to recover their Rents, Hath the Legislator considered the Ease of the Tenant, or of the Landlord? Have the Tenants ever complained to the Legislature of Hardships, and that their Landlords, not contented with the Power of Distress, have brought Actions upon Covenant, and Ejectments, and other expensive Suits, to the Ruin of them, and their Families? Yet such Suits have been brought without Reflection, where they have found the other ineffectual, or at least made more difficult to themselves: to confine them, to a Distress only, would be enabling the others the more securely

ly to defeat them of their Right; and encourage, not prevent the Frauds.

Would it be thought charitable in the Tenant, where his Landlord out of Compassion, and Forbearance, and Hopes of Compliance, had deferr'd distraining for his Rent, till he was not able to recover it by that Method, and forced to a Proceeding at Law against him, to say; that it was done with a malicious Intent of being inhumanly severe? And would others allow it to be a good way of reasoning, * “ Where
 “ the Motive of Action is merely conjectural,
 “ the Action itself is the only Rule left, where-
 “ by we can form any just Judgment of the In-
 “ tention? ” Does not the common Rule of Justice require, that Malice should not be presumed, but be prov'd? at least by Circumstances, independent on the Act itself, which is not malicious. Would it be thought consistent with common Understanding, that the wrong-doer should prescribe the Method to the injured, whereby he is to seek Redress? And shall he be judged malicious, who chooses that, which he thinks most conducive to obtaining, what is in Justice due to him? Has not the Complainant in all Cases the Choice of his Action? Is the Property of the Clergy to be govern'd by different Rules from the Rest of the Subjects? Why is that to be allow'd to be a good Argument against them, which would appear to be a gross Absurdity, when applied to another?

When

* Remarks on a Defence of the Examination of the Diocese of Litchfield and Coventry, p. 4.

When we consider the Nature of their Property, their Fortunes, and the Circumstances, they are under in Regard to those, they have to deal with; there will be but little Reason to imagine, that they would involve themselves in tedious, and expensive Suits, only to hurt their Neighbour: where a Thing is highly improbable, it must require a stronger Degree of Evidence to support it; their Character too, may justly be brought, as, a strong Presumption in their Favour.

But we are told * “ That some Men think
 “ the Characters of Merchants, and Traders
 “ are more tender, than those of the Clergy;
 “ because their Interest generally rises, and falls
 “ with their Reputation; whereas, persecuting
 “ Clergymen by lessening their Character
 “ may augment their Maintenance,” The Merchant, and Trader have never, as common Experience shews, look’d upon it, as the least Reflection, or Prejudice to their Character to sue for a Debt, that is unjustly detained from them: and this smart Reflection carries more Malice, than Meaning, in it. Does the Landlord by suing for his Rent, or the Merchant, or Trader for his Debt, augment his Maintenance? If not, neither can a Clergyman properly be said to augment his Maintenance, by demanding what is his own, but only to preserve it: Whereas if it be not his Due, he cannot obtain it, but must decrease it by the Charge,)

* Remarks on a Defence of the Examination of the Diocese of London, p. 22.

Charge, that will attend such a fruitless Attempt.

The Clergyman is intitled to the Income only for his Life, and is in Justice, and Conscience bound to transmit it entire to his Successor: His † Income is generally too small for a Provision for his Family, frequently for his own Subsistence, and allowing them but a common Degree of Understanding, he can never imagine, that he shall be a Gainer by a tedious, and expensive Suit.

What is detained from him may be either the principal Part of his Income, or some more trivial Sum: If the former, altho' he should obtain the utmost that the Law can give him, either treble Damages without Costs, or double Value with them, as in Predial Tithes; yet considering those Charges, which attend a Suit, beyond what the Courts can give; he will find himself no Gainer: But if the unjust Detainer will rather suffer the Extremity of the Law, than comply with the Decrees of Justice, (as
too

† The Livings to be augmented by the *Royal Bounty* were certified to be 1071 not exceeding 10 Pounds a Year.

1467 above 10 not exceeding 20 Pounds a Year.

1126 above 20 not exceeding 30 Pounds a Year.

1049 above 30 not exceeding 40 Pounds a Year.

884 above 40 not exceeding 50 Pounds a Year.

5597

See the Postscript to Dr. *Lawington's* Sermon preached before the Sons of the Clergy, *Feb.* 13. 1734.

From whence the Ingenuity as well as good Manners of the *Quakers* Apologist will equally appear, when he calls the Clergy greedy Dogs, which never can have enough. *Rob. Barclay's* Apol. p. 343.

too many Instances of it are given in the *Brief Account*) he may have supported his Right at the Expence of his Maintenance.

If the Due be smaller, as is mostly the Vicar's Case, he must there generally be content with the single Value, and his whole Demand be more than swallowed up by the Charges of a Suit; and yet, if neglected, this may draw a Refusal from others, to the Loss of the chief Part of his Subsistence: Where it depends on Custom, it may destroy his Title, whilst the wrong Doer, * like *Becket*, " endeavours to " possess the Parishioners with a Notion, that " he is introducing new Customs to their Pre- " judice;" and denies the Title to what is demanded.

But further this Income arises from Land in the Occupation of, or from Payments made by great Numbers of Parishioners, and others no way depending on him, or on his Choice, or Approbation: If the Landlord is wrong'd by his Tenant, it is one of his own approving; or he might have had Security upon letting his Estate; himself may prescribe the Conditions, and upon breach of the Covenant get rid of a bad Tenant. The Merchant, or Tradesman may enquire into the *Credit*, and Character of those, they trust; the least Suspicion will Occasion a Refusal without Loss to themselves. But those, from whom the Clergy's Income, even their Subsistence arises, are not of their own choosing;

* Exam. Diocese of Oxford, &c. p. 26.

choosing ; if they have been wronged one Year, the Farmer may go on to wrong them another without fear of Removal : Let him pay but his Landlord ; what he can detain from the Incumbent is clear Gains. The Landlord's Lease, and the Tradesman's Books may ascertain their Demands ; whilst the Incumbent may have an unsettled Account with every Inhabitant in his Parish ; wherein, if there be one dishonest, one litigious, troublesome Person, I may say, if one *Quaker*, which will frequently happen ; the rest of his Income will scarce be sufficient to defend him from their Injustice ; especially if such *Quaker* can possess the rest with a Notion, that, whilst the Incumbent is only endeavouring to recover his Right, he is introducing new Customs ; He may then be forced to give up his Claim, or to have a Parish to contend with ; may be reduced to neglect his Trust, or beggar his Family. If under these Difficulties he attempts to support it, he is stil'd a Persecutor ; and they blacken his Character, whilst they deprive him of his Maintenance.

Under these hard Circumstances, is there the least Degree of Probability, the least Foundation to presume without any, or without strong Evidence, that his choosing this Method proceeds from Malice, from an Intent to hurt his Neighbour, and sacrifice his Character, to his Interest ? Or ought we not in common Justice, in common Charity to believe, that Necessity forced him ; that the other Remedies were not, or at least were not believed by him (which is

sufficient to justify the Intention) to be effectual towards supporting his Right, and maintaining his Property ?

What I have observed will naturally lead an Answer to the Question, which is ask'd by the *Quaker*, * “ Whether the Tithes demandable by Law, either by the Clergy, or others, be not better secured to them, by *one uniform, short, easy, and certain Method* of Recovery, than by having recourse to Variety of Prosecutions, *tedious, and expensive* to themselves, and others, *dishonourably severe*, and in the End oftentimes ineffectual.” And I shall readily answer, in the Affirmative ; if such a Method was, or could be found : But it then would be reasonable, that the whole Nation should have the Benefit of such a Method ; and that it should not be confin'd, to Tithes, and Church Dues : The Landlord, the Merchant, the Trader, the Farmer, and every one, who has any legal Demand, even the *Quaker* himself, ought to be included : They ought to be restricted to it, as well as the Clergy, for different Laws can't reasonably be prescribed to equal Property. And under the Difficulties I have mentioned, relating to the Clergy, it would be hard to try the Experiment upon them, which would not be thought sufficient to secure the Rights of others.

At present I shall satisfy myself with enquiring, whether the Acts made in the 7th and 8th Years

* Remarks on a Defence for the Diocese of St. *David's*, p. 50.

Years of King *William* the Third for the more easy Recovery of Tithes, Church Rates, &c. be such a Method, as is by them described; and whether the Laws of the Realm, or the Statutes in that Behalf provided, which are the Foundation of the Complaints, contained in the *Brief Account*, do really deserve to be stil'd, *dishonourably severe*.

That these Acts of King *William* the Third were not by the Legislature thought effectual, will appear from the Title of the Bill, which was brought in; and which the *Quakers* so strenuously solicited, *viz.* "A Bill to enlarge, amend, and render more effectual the Laws now in being, for the more easy Recovery of Tithes, Church Rates, and Oblations, and other ecclesiastical Dues from the People call'd *Quakers*." If these Laws were already effectual, what Amendment could they want? Was it only to enlarge them, that they might be extended to all Sums, and all kind of Demands of that Nature, and to exclude the Courts of Justice from Cognizance thereof? that might have been done by a single Clause. Whereas new Methods were thereby proposed, new Regulations attempted, and many of them seemingly in Favour of the Clergy. The Bill was prepared by able Hands, who (moved with their Complaints, and their Pretences to Truth) had the greatest Compassion, and even Tenderness for the *Quakers*: It was corrected, amended, nay almost new modell'd; yet when it came to a strict Examination by those, who, as

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the supreme Judicature of the Realm, had always done impartial Justice, with Equity, in Matters of Property, it was there found, nay even conceded, that no Part of the Bill was good, except the Title.

But as the Reflections upon the Clergy have been made chiefly, for their not having confined themselves, for the Recovery of their Dues, to the Acts of the 7th and 8th of King *William* the Third; and the Instances in the *Brief Account* relate only to those Acts, I shall confine my Enquiry to them.

By one Method, I presume they mean, one single Method of Recovery; and with what Propriety can it be so call'd, when there are different Rules laid down in each Act? The one, has Regard to all Detainers of Tithes, &c. in general; the other, to the *Quakers* only. I shall not take upon myself to determine, whether these Acts are to be construed together, and all the Powers and Restrictions, except as to the Value, and Species of the Demand, which are contained in the first, are to be extended to the latter. Whether the Complaint must in both be made within two Years, after the Tithe became due: Whether upon an Objection to the Title, Security shall be required for the Payment of Costs on a Trial at Law, which may ensue: Whether upon Persons removing after Judgment, and before Distress, the Justices may certify those of another Division, in order to levy the same: Whether the Justices in both
have

have a Power to give † Costs, and whether they may proceed without the Appearance of the Party ; all which are contained in the first, but omitted in the second, and are all Circumstances extremely material, and in many Cases necessary : It seems probable, that the Parliament intended the second only, as an Extension of the former, which they had passed the same Sessions, and under the same Cautions, nor can it well be thought, that the former should have been settled upon such Deliberation, Conference and Debate, in order to guard it from Abuse, and the latter by the very same Persons be left so unguarded.

But since the *Quakers* in their Replies have insisted, that they are to be taken as distinct Acts, I shall consider them under that View; tho' at the same time * those, who proceeded upon a different Opinion, will be altogether free from the Imputation of Malice; whilst they thought themselves restrained by the one, from proceeding on the other. It is rather a Wonder, considering the Obstinacy of their Adversaries, that under these Difficulties they should venture to proceed at all upon the Affirmation Act. The first Act was design'd for their Benefit, the latter from the several Imperfections and Omissions apparently was not.

† This was ascertained by 1 Geo. I.

* See the Cases of Mr. *Jaumar* of *East Bedford*. } Exam. Dioc.
Mr. *Smith* of *Hendon*. } *Lon.* p 27, 28.
Mr. *Tho. Phillips*, } Exam. Dioc. *St. Da-*
and others. } *vids*, p. 12.

But surely this can never be call'd *one single Method*.

Neither can it be said to be an uniform Method, as well for the Reasons before-mention'd, as that the *Quaker* is at Liberty to object to the Title, and thereby force the Clergyman to proceed at Law, unless he will give it up. And indeed, unless there was an uniform Rule for the Payment of Tithes, which is not to be found, considering the various Customs, Compositions and Prescriptions, no other uniform Method can be prescrib'd to recover them, but under the Authority of the Courts of Judicature.

They say, * " That questioning of the Title
 " was not the Cause, but the Effect of such
 " Prosecutions" (in the Courts of Justice)
 " For when the poor *Quaker* is prosecuted in
 " the Ecclesiastical Court, to avoid Excom-
 " munication, the Consequence of which to
 " him may be Imprisonment for Life, he is
 " obliged to apply for a Prohibition, which in
 " some Cases he cannot obtain, without dispu-
 " ting his Adversary's Right to what he claims:
 " for the *Quakers* have not usually opposed the
 " Justices Decision by disputing the Title."

They have discover'd more perhaps in this Answer than they intended. The Reason, why they don't usually dispute the Title before the Justices, may be, that it is usually under 40 s. and in that Case they must give Security; and if they deny it only, because they are su'd, it will

* Preface to the *Brief Account*, p. 10.

will fall the heavier upon them ; and by reason of the Security, they can't defeat the Plaintiff of his Costs, by choosing Imprisonment ; but according to their Opinion the Act, where it is above that Sum, is different. When a Suit therefore is brought in an Ecclesiastical Court, they may upon a bare Suggestion, tho' false, obtain a Prohibition ; which is not very honest : But how will they reconcile this to their Consciences in the other Courts of Justice ? for tho' upon telling an Untruth only they may obtain a Prohibition, yet in the *Exchequer* and *Chancery* they must answer on their *Affirmation*, which is *their Oath* : If it be the Effect of their being prosecuted in those Courts, that they deny the Title ; the same Cause will produce the same Effect : And then either, what they say, is false, or what they do, is worse.

But they further † say, that the Title is not in Dispute ; “ unless a Party concern'd call it in question ; and that therefore to talk of the Title to the Tithe being in question, when they did not dispute it, proves nothing, but that the Parson conscious of the Injustice, or distrusting the Justice of his own Claim, chose the more terrible Way of proceeding, as the most likely Means to compel a Submission to it.” This is founded on a mere Quibble in Words, the Title is not indeed judicially disputed, unless a Party call it in question ;

† Remarks on the Defence of the Exam. relating to the Clergy in the Diocese of *London*, p. 26.

on; but when the Clergyman is told, that he is introducing new Customs, and this Notion is insinuated into other Parishioners, Is not this a Dispute of the Title, which may be the Cause of the Prosecution? Can he who denies the Title of a Person to the whole Estate, be presumed to admit it to any particular Part? and Does not the *Quaker* dispute his Right to the Tithes in general? Is it not the Foundation of all their Argument, that he has no Right? and yet the Clearness, or Difficulty, that attends this Title, must be considered before the Method of proceeding is resolv'd on; for it is afterwards too late. If he was conscious of the Injustice, or distrusted the Justice of his Claim, the Proceeding in the more expensive Way, would be terrible to himself only, and might ruin him, by endeavouring to compel those to submit to an unjust Claim, who will not usually submit to a just one.

The Remedy at Law, if it be more expensive, is frequently more *easy* to the Clergyman than the other, he may by Letter instruct his Lawyer, and without the trouble of persuading Witnesses to attend to do him Justice, may compel them; may give answer, if required, by Commission, and transact the whole without stirring from Home. Whereas he may have several Journeys to the Justices, who may live at a Distance; If he employs another in any Parts, wherein he may ease himself, the Justices can allow him no more than 10s. Costs by one Act, by the other (if distinct) can allow him

him nothing; he can have no Recompence for his own Trouble, and Loss of Time. This the *Quakers* must allow to be a great Hardship upon him, when in the *Brief Account* they have given several Instances of Prosecutions, which are termed by them *ruinous* and *destructive*, where the Parties only went to the Court at some Distance, and were dismissed without further Expence, or Trouble, particularly of † two Servants who were obliged to ride 30 Miles upon a Prosecution for *Easter Offerings*.

The only Way of making this a short, and easy Method is by continuing, or enforcing the others, where this does not prove effectual; because it is a Method that is not certain; unless they will advance the Absurdity, that the shortest, and easiest Method of Recovery is to have none at all.

The District of the Justices is too narrow, their Power too short, to give a certain Remedy, there are many Instances in these Acts of of the 7th and 8th of *William* the Third, which may, and have been defeated thro' the Subtilty of the *Quaker*. The first Act directs, that the Justice of the Division, where the Tithe shall grow due, shall summon the Party complain'd of; the latter Act, tho' it does not express it in those Words, implies the same, shall convene the Parties; if he lives in one District, and occupies Lands in another (which in these narrow Limits may frequently be the Case) how shall the Justices proceed? Those, where the

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Land lies, cannot summon, or convene him, he is not within the Reach of their Warrant; those, where he inhabits, cannot reach his Effects by Distress, unless he remove them, or where he has Effects in the same Place, yet if he remove them before Judgment, the Acts do not extend to it: Thus, if there were no other Method, the Clergyman must be defeated. There are innumerable other Ways of defrauding the Clergy, whilst confin'd to these Acts, which I shall omit, not out of Apprehension of teaching the *Quaker*, what he does not know, but least others, who have as little, or as extensive a Conscience, should thereby have as much Knowledge.

But the greatest Uncertainty arises from their Defect of Power, in compelling the *Quaker* to answer upon his Affirmation; or to summon, and oblige unwilling Witnesses to appear: This is essential to Justice, this objection cannot too often be insisted on, until it receive an Answer. For where there is this Defect of Evidence, there must be a Defect of Justice. The Clergyman knows, he has a Right, but the Quantity he cannot tell, there is a Farm in the Parish, Part of the Produce of which he knows to be his, but the Occupant will not inform him of the Particulars, or perhaps it is doubtful, who is the Occupant, whether the Father, or Son, or other Friends, who live together, he has an Account current with them, of which he can get no Copy, and those only, who can prove it, live in the Family, and wont
appear

appear to do Justice. What then under the Authority of these Acts alone must he do? It will be said, How does he now do in such Cases, where he takes that Method? He can have no more, than he is able to prove, and thereby frequently loses half for Want of Evidence: and is rather content to sit down by the Loss, than to be at the Trouble, and Expence of the other Method: But there is no Reason, that he should always do so. And if there was no other Method, they would easily find Means of defeating him of the other half.

It has been said in Reply, * that by the Affirmation Act “ There is a Method of ascertaining
“ the Particulars, and Valuation of the Tithe,
“ by examining the Parties on their Oath, or
“ solemn Affirmation without a Prosecution in
“ the *Exchequer*, or Ecclesiastical Court,
“ which it is said may serve to remove that
“ plausible Pretence of *Necessity*, under which
“ the Clergy would shelter their *tender Cha-*
“ *raçters* from the deserved Imputation of *Se-*
“ *verity*.”

What seems to be allow'd by this Answer is, That there is a Necessity of ascertaining the Particulars, and Valuation of the Tithe, by examining the Parties upon Oath, or solemn Affirmation; that if the Act does not prescribe such a Method, it would be a *Shelter* to their *tender Characters*, and they would not deserve the Imputation of *Severity*, but on the contra-

* Remarks on the Defence of the Exam. Dloc. London, p. 23.

ry, what follows from thence is, that those, who impute it without Cause, would deserve the Effect of that Imputation.

In Order to prove this, they have recited the the Words of the Affirmation Act, 7th and 8th of King *William* the Third. "It shall and
 " may be lawful to, and for the two next
 " Justices of the Peace by Warrant under their
 " Hands, and Seals to convene before them
 " such *Quaker*, or *Quakers* neglecting, or re-
 " fusing to pay, or compound for the same;
 " and to examine upon Oath, (which Oath the
 " said Justices are hereby impower'd to admi-
 " nister, or in such Manner, as by this Act is
 " provided) the Truth and Justice of the said
 " Complaint; and to ascertain, and state what
 " is due, and payable by such *Quaker*, or
 " *Quakers* to the Party, or Parties complain-
 " ing."

By this Act the Justices have Power to examine the *Quaker*, if he be willing; but if he be not, may not he tell the Complainant, according to the common Cant, * *Prove thy Due, Swear thy Due?* Have the Justices Power to compel him to answer? The Act does not say, they shall examine the *Quaker* upon Oath, or Affirmation; but that they may *examine* upon Oath *the Truth*, and Justice of the Complaint, and ascertain, and state, &c. Where is the Power of compelling him to answer? and to answer directly without Equivocation? Can they

* Exam. Dioc. of *Hereford*, p. 18.

they commit him, if he refuses? Their Power can't with Safety either to themselves, or the Plaintiff be extended beyond the Bounds of the Act, and there is not the least Degree of Power of Compulsion given them by the Act.

In the Courts of Justice the *Quaker* may be compell'd to set forth the particular Species of Tithes together with the Value thereof, if he gives in an insufficient, a shuffling, or an evasive Answer, upon Exceptions he will be obliged to answer further, if he give in a false Answer, it is upon Record, and he may incur the Guilt, and suffer the Punishment of Perjury for it. Is this the Reason, that altho' they usually (as they say) submit to the Justices Decision, they frequently choose rather to go to Prison, than to answer in a Court of Justice? They indeed tell us, that where the Motive of Action is conjectural, the Action itself is the only Rule, whereby we can form a Judgment. Let them apply this to their refusing to answer, or assign another Reason for it.

If the Justices had the Power of compelling, and could commit for a Contempt in not answering, what Difference would there be to him between this Proceeding, and those in the Courts of Judicature? Can he, that will go to Prison, sooner than answer in the Courts of *Chancery* or *Exchequer*, answer upon his Affirmation voluntarily before a Justice of Peace? Or would it better satisfy his Conscience to be committed by a Warrant from him, than by a Writ from the others? 'Tis certain, it would not;

not; for that is already done by Virtue of those
 * Acts, which he, upon that Account, terms
dishonourably severe.

But what says the other Act, 7th and 8th of
 King *William* the Third, *Chap.* 6. which is for
 all Sums under 40 s. and extends to *Quakers*,
 as well as others? “ And the said Justices are
 “ hereby authoriz’d, and requir’d to summon
 “ in writing under their Hands, and Seals by
 “ reasonable Warning every such Person, or
 “ Persons, against whom any Complaint shall
 “ be made—and after his, or their Appearance,
 “ or upon *Default of their Appearance* — shall
 “ proceed to hear, and determine the said
 “ Complaint, upon the Proofs, Evidences,
 “ and Testimonies produc’d before them.”
 Here then, so far are they from having a Pow-
 er of compelling the *Quaker* to answer, that
 they have not Power even to compell an Ap-
 pearance. And yet it may still be a Doubt,
 whether if the Sum demanded be under 40 s.
 the Justices can proceed against the *Quaker* up-
 on the Affirmation Act, which alone is refer-
 red to in their Reply; as the first Act is ge-
 neral— “ All and every Person and Persons,
 “ shall henceforth well and truly set out, and
 “ pay”— “ And if any Person, or Persons shall
 “ hereafter subtract ” — “ the Justices shall
 “ summon every such Person, of whom any
 “ Complaint is made ” — “ and upon Default
 “ of their Appearance, shall proceed to hear.”—
 And

• 27 H. 8. c. 20. 32 H. 8. c. 10.

And unless they can resolve this in the affirmative, it will imply, that the Justices may examine the *Quaker* without his appearing, at least where the Sum is under 40 s.

Thus we find them, as faithful Interpreters, as they are Observers of the Law; whilst the Scandal, they would throw upon the Clergy, retorts upon themselves. 'Tis strange, there should be so odd a Mixture in their Composition, that with them Conscience and Calumny should be constant Companions!

As to the Power of the Justices in compelling Witnesses, I don't find, that there is the least Pretence for it, which Power can in no Case be more necessary than in that of Tithes; the Quantity, and Value of them, especially Vicarial Tithes, none can be presumed to know, but those, who are most conversant with the Detainers, or are employ'd by them in their Affairs: And from them, either the same Persuasion, their Relation, or Dependance, the Union in Principle, or Fear of disobliging to their own Prejudice, will leave little Reason to expect a voluntary Appearance for the sake of doing Justice, especially where, (as it frequently happens) they are taught to bear their Testimony against them. Whilst others, who are more indifferent, are deterr'd by the Fear of being stil'd * Informers. Here then, unless the Clergy will lose their Property, they must necessarily have recourse to the Courts of Justice
for

* Exam. Diocese of Carlisle, p. 20.

for Relief, which only can compel : And had their *Brief Account* been swell'd with twice the Number, the *conscientious* Fraud, and Concealment of the *Quaker* might from the Defect of Power in the Justices have created a Necessity of applying to those Courts, without the Imputation of Malice, except from Malice itself.

Notwithstanding the *Quakers* Pretence of submitting to the Justices Decision, which they have been forc'd to qualify with the word, *usually*, we don't find, but that they are very ready, where they imagine, that there is the least Defect either in Power, or Form to fly to avoid it to those Courts of Justice, from which they would exclude the Clergy. A notorious Instance of this is given †, where after a Decision by two Justices, confirm'd upon an Appeal made by nineteen of the *Quakers* to the Quarter-Sessions, an Action was brought against the Church-wardens, for (ministerially) levying the Sums directed by Order of Sessions. But when after a Trial at the Assize, a Matter in Law having been reserved, and argued, it was determined against them ; they have in that Case *usually* submitted to the Decision of the Justices. Thus we see, 'tis sometimes dangerous to pursue the Method they prescribe, tho' they describe themselves * a meek, patient, and peaceable People.

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† Exam. Dioc. *Carlisle*, p. 4.

* Remarks on the Defence of the Exam. Dioc. *Litch.* and *Cov.* p. 48.

It may be thought by some of those, whose Characters, and Property I would endeavour to support, that by too far shewing the Insufficiency of that Method, which they themselves would rather choose, I may in many Cases deprive them of the Benefit, of what was at first designed in their Favour; and that the pointing out the Defects, encourage others to give an Opposition to it: It may possibly have that Effect, but not with the *Quakers*, (for they can be instructed in nothing new, whereby they can injure the Clergy) and I am satisfied, that the Characters of the Clergy, are dearer to them than their Property: If others should be so unjust, as by Fraud, and Concealments to evade the Power of the Justice, they must thank themselves, if the Clergy are forced into what are called the severe Methods; who must consider, that it is their Duty to defend that Property, of which they have only the temporary Enjoyment, that where these Acts are insufficient, there is nothing inconsistent with their Character of a Clergyman, a Christian, or an *Englishman*, to apply for Redress to his Majesty in his Courts of Justice, by those other Methods, which the *Quakers* without any Colour of Reason stile *dishonourably severe*. For when they are once excluded from the common Refuge of the injur'd, and oppressed; when once the Power of securing their Property is taken away, their legal Establishment is at an End; which are the *ultimate Views* of those, who have treated them so injuriously.

Let them consider further, that the Establishment of the Church of *England* was never destroy'd, but to make way for a general Invasion on the Rights of the Crown, the Honours of the Nobility, and the Liberties of the Subject; That by defending themselves, they only guard the Outworks, which secure the others; That when *Popery* offer'd them greater Honours, greater Possessions, greater Power, they nobly, and from a true Principle of Conscience with Disdain rejected the glittering Bait; despised not only the Calumny of their Adversaries; but even the greatest amongst them, bore the Frowns of their Prince, and the Hardships of Imprisonment, till Providence turn'd their Tears into Joy: Let them consider, that they are now under the Protection of a gracious Prince, who never varied from his Royal Word, whose Justice was never doubted: And let them despise the empty Clamours of those, who dare stile the Laws of the Land, and the Courts of Justice *dishonourably severe*.

But what is the Foundation of this Clamour? What is there in those Laws, which is *dishonourably severe*? The first is, that the Courts enforce their Decrees, upon a Contempt of their Authority by Imprisonment. This I have observed is necessary to the very Existence of a Court of Justice: It is the same Power they use in all Cases, to all Persons, where Property is concern'd; unless where special Privilege of Peerage, or Parliament interposes. Has the *Quaker* any Claim to this Privilege? Does the

Nation suffer by their Absence from the yearly, or quarterly Assembly? Far otherwise. If any Severity then arise from it, it is their own Fault, they may prevent it; and it would be partial, it would be unjust, it would be *dishonourable*, to suffer them to assume a Character superior to the Law, and to condemn the Authority of the Courts of Justice.

The next is the Expence, that has attended these Suits: And here we must presume the Demand was just, or it would have fallen on the other Side; if just, why was it not comply'd with? Conscience obliges, not forbids it: And when the Suit is brought, the Defendant might make it very easy by a Tender; the Expence is increased by the Opposition, by refusing to answer, answering evasively, denying, and putting the other upon the Proof, seeking all the Evasions, and Delays that the Sagacity of their Lawyers can find out, or the Indulgence of the Laws, in order to a full Discovery of the Truth will allow of; where all this is found to have proceeded from an unjust Refusal, false Pleas, and Suggestions, and defective Evidence, and an Abuse of the Indulgence of the Law, Upon whom ought the Charge, it has occasioned, to fall? Upon him, whose Demand was just, who was desirous of obtaining it without a Suit, who has been put to equal, if not greater Trouble, and Expence to obtain his Right? or upon him, who occasioned it? The *Quaker* tells us, to lay it upon the latter is *dishonourably severe*. And

yet he would think this very cruel in relation to his own Property.

But the ruinous Seizures for treble Damages, he tells us*, are *shocking*. If good Actions may be attended with a threefold Reward, Why may not dishonest ones with a threefold Punishment? We may be shock'd, at seeing the Punishment Invaders of Property undergo, yet our Compassion is due to the Injur'd, and a Detestation of such Invaders is due to the Publick. The *Quaker* may think those Laws most just, where a Man may be dishonest at the least Expence, but by Experience they are often found ineffectual. The Concealer may so often succeed in his Fraud, that he may be a Gainer notwithstanding treble Damage, from what he gets, that is not discover'd; or for which he escapes Prosecution. And in many Cases, especially relating to the Crown Revenue, the Laws have been forced to add severer Punishment than treble Damages, not only in Justice against the Defender, but for an Example to deter others from the like Practices. In common Cases relating to Property, as † in Distress and Rescue, and in many others, treble Damages, and sometimes with Costs, are given by Statute ‡. And

* Preface to the *Brief Account*, p. 7.

† 1 and 2 *Phil. and Mary*, c. 12. 2 *Will. and Mary*, Sess. 1. c. 1. §. 4.

‡ By the Laws of King *Edgar*, he who with-held his Tithes was allow'd only a Tenth Part for himself, another Tenth was allotted for the Tithe, and of the other eight Parts, four were forfeited to the Lord, and four to the Bishop. *Lege Edgari Lambard's Archaia nomia*, p. 62, 63.

And he who does the Injury, can have no Right to fix the Bounds of Redress.

The Practice of prosecuting one for an Example to others, is censured as † “common, tho’ unchristian and inhuman.” This Practice is so common indeed, that it has been the Practice of all Ages, and all Nations; it is the common Usage of this Realm, and all our penal Statutes are founded on this Rule; it is consistent with all Laws human, and divine. It is just; it is merciful: He who suffers, has deserved it; and it may save many from the like Offences, and the like Punishment: And altho’ it may be a Misfortune to have occasion to have recourse to it, yet woe be to them from whom the Offence comes: And there is nothing inconsistent with the Character of a Clergyman, a Christian, an *Englishman* to do it. These Laws therefore, altho’ more *severe*, are no less *honourable*. Thus when the *Quakers* are stripped of the supplemental Aid, which they borrow from strong and abusive Epithets, their Remarks are found to have no Meaning.

Where is then the Justice of this Charge upon the Clergy? Their Property, tho’ small, is in its own Nature at least equal to the rest of the Subjects, the Law, which guards it, is the same; the Courts, which they apply to, the Rules of those Courts, and the Manner of proceeding is in common with all others. As to those

† Remarks on the Defence of Examinat. relating to the Clergy of *London*, p. 26.

those Laws, which are now censur'd, most of them ingrafted in our Constitution have continued from the Beginning of it without Alteration; others, which from the Perverseness of the Wrong-doer have been found necessary to be added, have born the Test of above 200 Years: their Difficulties been explain'd, their Doubts removed, the Disputes arising from any Ambiguity, and Uncertainty adjusted, and an uniform, and certain Method of proceeding by Precedents, and Practice settled: Yet these are all to be taken away, and a new Method ineffectual without the Aid of the others to be substituted in their place, and the Clergy to be subjected to different Laws from the rest of the Subjects.

One would think, that defrauding the Clergy was like killing the Game, which would admit of an Alteration in the Law almost every Session of Parliament; and yet let the *Quakers* compare the Laws, which relate to that, with *those* he now complains of, he will still find, that detaining from the Clergy their Property, does not subject him to such immediate Hardships without his own further Fault, and Contempt; as those are liable to, who without a Qualification take that, which is by Nature common, and by Law the Property of no one, until it be taken; and yet he calls those Laws *dishonourably severe*.

The Extent, and Consequence of any new Law cannot be found out, but by Length of Time, and the Experience of Practice; and
not-

notwithstanding they are drawn with the greatest Judgment, Care, and Foresight, especially when upon new Foundations, yet Doubts will arise, they may prove obscure, if not contradictory upon a nice Scrutiny, and Comparison with the Maxims of Law and Rules of common Justice; and if not destructive, may be deficient of the End intended by them: It is therefore highly unreasonable to abrogate, what by Length of Time has received a further Sanction, for an experimental Law, the Consequence of which is unknown.

The Clergy had found, that even some of those Laws, which had been made upon the early Reformation, and intended in their Favour, through varying Usages, Compositions, Carelessnesses, Neglect and fraudulent Contrivances, had turn'd to their Prejudice; particularly in Offerings, and all personal Tithes: They now find the Remainder, which had stood the Test of Ages were going to be taken away, and even the old Foundations, upon which their Properties were built, riveted into the Constitution, its Cement by Time grown solid, secured by additional Fences, all to be thrown down; and a new one to be laid on a sandy Bottom: Debarr'd from a Recourse, when injur'd, to the common Courts of Justice; and themselves the only Subjects of his Majesty, who were to be excluded, as it were by a general Outlawry from his Protection, and all this upon a Suggestion of those, who invade that Property, that it would be an easier Method to recover it.

Timeo Danaos!

What

What is the Behaviour of the Clergy upon this? It was a common Concern, the whole Body might be affected, their *All* was at Stake: They only humbly supplicate the Legislature, they ask no new Favours, no new Privileges, they point out, they demonstrate the Imperfections of the experimental Remedy, and only pray, they may still have the Liberty of defending their Property by the common Rules of Justice, and the known Laws of the Land: Had they omitted it, how could they have answer'd it to themselves, or to Posterity? Would the meanest Corporation in the Kingdom, the lowest Set of Men, that can be call'd a Body, or who had any Rights to lose, have been blam'd for doing the like? Are the *Quakers* calling themselves a *People* to be at Liberty to attack, and are not the Clergy to have a Liberty to defend? Yet for this only they are stiled Advocates for Oppression.

The Suggestions of the *Quakers*, which produced this extraordinary Bill were, " That
 " altho' an easy Remedy was provided by the
 " Acts of the 7th and 8th of King *William*
 " the Third, and 1st of King *George* the First,
 " which intended to prevent oppressive, and
 " ruinous Prosecutions, yet above 1100 of
 " their People had been prosecuted in the *Ex-*
 " *chequer*, Ecclesiastical, and other Courts for
 " trivial Sums, attended with heavy Costs, and
 " rigorous Executions, whereby the favourable
 " Intent of those Acts were frustrated."

They

They did not indeed lay the Whole to the Charge of the Clergy, at least not in publick; but one, who, whilst the Bill was depending, espoused their Cause, who, tho' he declares he has no Acquaintance among them (let those who can, believe it) mentions * 1158 Prosecutions, without the least Imputation upon any, but the Clergy, and thereupon breaks out into a Rant, † “ The utmost Force of Imagination cannot paint an Hell more terrible to our Fears, than what the Cruelty of the Clergy daily sets before our Eyes.” Notwithstanding the Force of his Imagination, his Ideas appear to be too faint, and imperfect, especially of that, which may deserve his more serious Thoughts: and yet this Wretch, whose Weakness, and Scurrility had render'd him beneath Notice, who like an Insect had struck its Sting against, what it could not wound, and died; is now relied upon by them, as the Defender of their Principles and Conscience, as one, who had wrote with || such a Strength of reasoning, that he was never yet replied to. How strangely does the same Language, the same Sentiments, the same Conscience unite those, who have otherwise no Knowledge of each other! They have adopted this Author, now as their own, and yet these meek Men do not asperse the Clergy!

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The

* Answer to the Country Parson's Plea, p. 80. † Page 83.

|| Vindic. of the *Brief Account*, in Answer to an Exam. in Defence of the Clergy of the Diocese of York, p. 8.

The *Quakers* were challenged before the Legislature to produce Instances to prove their Suggestions, but having been unfortunately coerced to legal Evidence, (that is, such Proof as may satisfy the Conscience of a just, and honest Man, in Order to form a true, and certain Judgment) they were altogether unprepared: But when the Restraint is taken off, they hope separately to convince them of the Truth of their Complaint by that, which they knew was too defective to be offer'd to their unbiassed Judgments, and their *Brief Account* is now submitted without Proof, to the Consideration of the Members of both Houses of Parliament.

What an Opinion must they have entertain'd of the Integrity of those, they in vain hope to influence upon any future Application, by offering that, as Evidence to them singly, which they durst not produce to them, when they acted in their publick Capacity, and which appears to have been there prepared, and in their own Power; and which upon Examination (as far as it has hitherto gone) * “ appears to be a
 “ Pamphlet, full of severe Charges against Fel-
 “ low-Subjects entirely destitute of all Proof to
 “ maintain them: and that the Reputations of
 “ private Persons have been previously attack'd,
 “ that the Way might be made more open for
 “ injuring them afterwards in their Proper-
 “ ty.”

This

* Examinat. in Defence of the Clergy of the Diocese of York,
 p. 144.

This leads me to consider the Nature of the Evidence in general, upon which this Charge is founded, and by which it is supported. And they tell us, the Cases of the *Brief Account* were collected from Memoirs of the Facts regularly entred in Writing, when, and as they were transacted; and admit, that they were from the Information of the Persons prosecuted; and by the circular Epistle of 1732 from the yearly Meeting held at *London*, "It is earnestly desired, that all quarterly and monthly Meetings be careful to advise their respective Members to bring in the Accounts of their Sufferings, that they may be *recorded*." Thus are their Memoirs become *Records*, and this is the Term, that had been made use of by their * Apologist, and when the Compilers of the *Brief Account* were blamed † "for not searching the *Entries and Records* of the *Courts* of Law, in which the Prosecutions were carried on, from whence many of the Defects of the *original Memoirs* might be supplied, and the Errors, which those Defects would otherwise produce, be prevented." They in Reply say, || it is "a Method unnecessary to us, who had Records of our own, on the Credit of which we could entirely depend." Thus

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they

* "Thus after much and many Kind of Sufferings, thus patiently born, which to rehearse would make a Volume of it self, which may *in due time* be publish'd to the Nations (for we have them upon *Record*) a Kind of negative Liberty has been obtain'd." *Robert Barclay's Apol.* p. 509.

† Exam. Diocese of *York*, p. 13.

|| Vindic. in Answer to the Exam. Diocese of *York*, p. 28.

they set their own *Records* (as they call them) above those of the Courts of Law. But upon what Footing they are so stiled, it is not easy to imagine. Is it because their yearly Meetings, taking upon them a legislative Power without the royal Authority, have order'd those Memoirs to be recorded?

But from these Records, such as they are, what Evidence can arise, unless the opposite Side had Liberty to inspect them, and had recourse to the whole Record, to compare the Extract therewith, and to make use of such Part thereof in their Defence, as might be conducive to that End? It is otherwise *partial* Evidence, and carries the highest Suspicion of Falshood from its Concealment, especially when the one has been prepared, and the other extracted by them to serve their own Purposes.

These Records are kept with the greatest Privacy, not permitted to be seen by any, but *the Friends*, and by few of those. And I am inclin'd to think, that upon their first Application to the Parliament, had *all their Records* been ordered to be brought before the House, upon proper Affirmations, to be inspected by the Members, they would gladly have waved any further Enquiry.

But where a Record, or the Extract from it is in any Part proved to be false, it destroys the Credit of the whole. It is not therefore sufficient for them to say, || “ That each single
“ Profe-

“ Prosecution therein ” (in the *Brief Account*)
 “ is a *distinct*, and independent Fact, the
 “ Truth, or Falshood of which has no Relati-
 “ on to any of the rest; and that a Mistake in
 “ one of them, is not applicable to the other.”
 For Evidence, whether written, or verbal is in
 its Nature the same, and the Faith, or Credit,
 which is to be given to it, is indivisible. If it
 be false in one Part, it will be presumed false
 in the Whole, when that, which is to give Cre-
 dit to it, has lost its own Credit.

Thus, if a Witness be proved false in one
 Part of his Evidence, tho’ possibly he may not
 be detected in other Parts, would the Persons
 producing him be allowed to insist, that what
 he deposes, are distinct, and independent Facts,
 and his Mistake (for by that Term they might
 be apt to palliate his Falshood) is not applicable
 to all the rest? Undoubtedly they would not.
 Nay further, if it shall appear, that those, who
 produce the Evidence have been tampering
 with, and preparing it, either to conceal Part
 of the Truth, or by ambiguous Words to dis-
 guise it, the proving this will bring a Discredit
 upon any other Evidence, which they may
 bring to support such separate, and distinct
 Facts.

To apply this to their *Brief Account*, when
 those who compiled it, rely upon it, as Evi-
 dence, that a Clergyman was guilty (as they
 call it) of prosecuting a *Quaker* at Law for a
 Matter recoverable by the 7th and 8th of King
William the Third, and it is proved, that the
 I Person

Person they name, was not prosecuted at all; or, that the Prosecution was before those Acts were in being, as too many Instances have upon the Examination been found out; those Records, or Memoirs, call them what they will, are directly falsified: Should they then in Cases, where the contrary cannot perhaps be proved, and there is no other Evidence, than what they produce, insist upon this, as a Proof of a Prosecution, and say, No Record proves nothing: It certainly proves more than a false Record; for a presumptive Proof will arise from thence, and no Proof at all from the other.

So likewise in tampering with, and preparing their Evidence; to mention an Instance amongst many, when * “ *Amos Bickham* is said to have “ been prosecuted in the Ecclesiastical Court at “ the Suit of *John Swain*, Clerk;” and this is brought, as an Instance of a Prosecution there for a Matter recoverable by the aforesaid Statutes, if upon Examination it shall appear, that † *Swain* was only a Parish Clerk, and sued there for his Wages as such, and that he had no Remedy by either of those Statutes, Is not here a gross Prevarication, by the Ambiguity of the word Clerk, joined with the Falsity, that it was for Dues recoverable by those Acts? As this Evidence has been thus prepared, and instructed by them, What Credit can be given to it, when apply’d to different, and distinct Facts?
Words

* *Brief Account*, p. 64.

† Page 179.

Words * are to be made use of, not according to a grammatical Propriety from their Original, but according to the common Use of them, and the Sense, in which they may be understood by those, to whom they are spoken. No one would readily excuse a Man, who should call him a Knave, and afterwards shelter himself under the Pretence, that he meant it, according to the old Signification of the Word, which was a Servant †. The Remark of ‡ *Isocrates* must be own'd for a certain Truth, "That to use ambiguous Sayings in judicial Contentions about Bargains, and Matters of Interest, and Moment is scandalously base, and shews a very high Degree of Wickedness."

The chief, if not the only Instance, that I can find, whereby they attempt to prove Malice upon the Clergyman, who prosecuted, from any other Evidence, than from the Fact, that he did prosecute, is, that of || *Tho. Phillips*, Vicar of *Langborn*, who prosecuted *Daniel Williams* for Tithes. The marginal Note tells us, that "the Vicar's Demand on *Daniel Williams* was about 1 s. 6 d. and *his Son*, not a *Quaker*, tender'd the Vicar 5 s. before any Prosecution began, bidding him take his Due for his Father's Tithe; but the Vicar refused it, and replied, *Daniel must suffer*." I may observe here, that the word *suffer* is rather a Cant

* See *Grotius de Jure belli & pacis*, lib. 2. c. 16. § 2.

† *Puffendorff's Law of Nature and Nations*, l. 4. c. 1. § 13.

‡ *Panathenais*.

|| *Exam. Dioc. St. Davids*, p. 12.

Cant Word of the *Quakers*, when applied to the Payment of a just Debt, and not likely to have been used by the Vicar. For if the Tender was sufficient, how could *Daniel* suffer? If it was not, a better Reason may be assign'd than a malicious Design of what proved the Consequence, and the Son might then have made a further Tender to prevent it.

But to this Account the Vicar replies, * “ A
 “ Bill was filed against *Daniel Williams* at the
 “ Grand Sessions for with-holding from me
 “ the Sum of thirteen Shillings due for Tithe
 “ of Hay, Oblations, and Obventions, for a
 “ certain Number of Years. I utterly deny,
 “ that any Tender at all was made to me by
 “ the Son of *Daniel Williams* either before or
 “ after the Commencement of this Action: I
 “ never had any Conversation with him, and
 “ consequently could never make him such a
 “ Reply, as that mentioned in the *Brief*
 “ *Account*, *Daniel must suffer*. The Tender
 “ was made subsequent to the Action, and was
 “ not made to me by *Daniel Williams*, or his
 “ Son.”

In the † Vindication they answer, “ That
 “ *Daniel Williams's* Son might send the Money
 “ tendered either by his Wife, or some other
 “ Person, and the Vicar might send his Reply
 “ by the same Person, and it is well known
 “ that in such Cases a Man is usually, and in
 “ common

* See Exam. Dioc. St. *David's*, p. 81.

† Vindic. *Brief Account*, in relation to the Dioc. of *Litch.* and *Cov.* Appendix, p. 77.

“ common Acceptation, said to do a Thing,
 “ which he employs another to do for him,”
 In Support of this they give the Reader an Extract of a Letter from *Daniel Williams*, wherein he says, “ when the Money was offer’d, it was
 “ to his Wife,” whose answer was to the same Effect, “ but the Party would not be so served, but must tender it to the Priest himself,
 “ and did, and his Answer was, No, DANIEL must SUFFER.”

The Vicar in his Defence says, * “ To prevent further Cavilling I do declare, that I
 “ never used the Words, they charge me with,
 “ to any Person whatsoever.” Thus he has fairly put the Proof upon them by a direct Denial of the Words to any Person, and what do they say to this? Nothing directly, but † that
 “ If the Vicar will plainly say, the Tender was
 “ not made by *Daniel Williams’s* Son, nor by
 “ any Person sent by him, it will be incumbent on him to specify the Persons Name,
 “ who made it without his Order. When he
 “ does that, which we think he cannot, let him
 “ insert the Person’s Name instead of *Daniel Williams’s* Son, and he will find his Cause
 “ not one Tittle either better, or worse than it
 “ was before, of so little Consequence is his cavilling upon this Point.”

Thus then the Evidence stands upon the Proof of the Words, *Daniel must suffer*: Does the Extract agree with the original Memoirs

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* Defence of the Exam. St. Davids, p. 8.

† Remarks on the said Defence, p. 17.

entred in Writing when, and as the Fact was transacted? Was *Daniel Williams's* Son originally inserted therein? If so, *Daniel Williams's* Letter, which is the only Voucher they have produced, don't support it, and the Record is false; if it was not, then the Extract is false, and don't agree with the Record, but is inserted by the Compiler of the *Brief Account*, to make the Calumny the more plausible, by pretending to name the Person, to whom the Words were spoken; when a Specification is call'd for, and the Person is thereupon named, it can never be allow'd in Order to vindicate it from Falshood, to say, that it might be another by his Order, for it is then no Specification. But here it is particularly coärcted to the Person, *his Son*, not a *Quaker* (lest it should offend the *Quakers* Conscience by a Tender for Tithes) bids him take his Due for *his Father's* Tithe, who was not his Son.

But what is more extraordinary in this Case is, the Vicar is desired to insert the Name of the Person, who made the Tender, and he will find his Cause not one Tittle the better, that is, they have ventured to name one, with whom he never had any Conversation; they are afraid to name another, lest the same should happen likewise in Relation to him, and therefore require the Vicar to name the Person, who made the Tender, that if it be asserted, that the Words were spoke to him, he cannot then be able to say, he never had any Conversation with him. Where lies the Cavil in this Case? they
may

may well avoid the Courts of Justice, where it might be dangerous for them to use such Prevarications.

Specifications are very necessary to support the Veracity of Evidence, and for the Defence of the accused; and therefore they themselves tell us, * “ that when the Case of the People call’d *Quakers*, presented to the Parliament, set forth that there have been prosecuted in the *Exchequer*, and other Courts for Demands recoverable by the Acts 7th and 8th of King *William* the Third, above 1100 of that People; of whom near 300 were committed to Prison, and several of them died Prisoners: some Persons in eminent Stations seemed to regard that Representation, as a Thing scarcely *credible*, a bare *Surmise* of the *Quakers*, and requiring a *Specification* of Facts to support it.”

That “ for the Satisfaction of such the following Sheets are publish’d, containing not only a greater Number of Prosecutions than the said Case made mention of, but also giving a particular *Specification* of *Causes*, *Persons*, *Places*, and *Times*.”

As this Representation was at first regarded, as scarce *credible*, so it can gain no Credit from the *Brief Account*; and the Specifications, which are thought necessary to support it, are too defective, to give any Satisfaction.

The Title Page of the *Brief Account*, calls them *All*, Prosecutions for Demands recoverable by those Acts; the following Sheets are as-

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serted

* Preface to the *Brief Account*, p. 6.

ferred to contain Demands so recoverable ; yet as soon as it is asserted, the Falshood thereof was in several Instances so glaring, that they have been forced by an uncommon Method to except against their own Evidence, before they have produced it, and offer to give it up. They are so sensible of the Objection, “ that in some “ of the Cases the yearly Demand was not recoverable by those Acts,” that they will admit of their Deduction. If so, why were they inserted? Was it only, that they might be deducted? If not recoverable, they ought then to have been omitted: unless they will surmise, that a Specification of Demands not recoverable will be a Satisfaction to those in eminent Stations, that they are to be believed, when they have specified them, as *Demands recoverable* by those Acts. But this is scarce *credible*.

They say however, these Cases are but few, and the Surplusage of their Number will admit of their Deduction, If this were true (the contrary of which appears from the several Examinations they have hitherto undergone) tho’ it might not contradict that Part of their Case, it falsifies the Assertion of the *Brief Account*, that they were recoverable by those Acts, when upon that Account they are to be deducted. Will the deducting of them make the Assertion true? It cannot. Confession of a Falshood does not convert it into Truth. And their Defender * may, if he thinks fit, for their Credit

* Remarks on the Defence of the Exam. Dioc. *Litab.* and *Gov.* p. 20.

dit infist, that they have not only told *the Truth*, and the *whole Truth*, but *more than Truth*; altho' he cannot then truly say "without any " fraudulent Mixtures."

But these are not the only Deductions, unless they will surmise, that Demands not comprehended in either of the Acts, and for which the Justices can give no Remedy, were recoverable thereby. Of this Kind are Parish Clerks Dues, of which not a few † Instances are given to swell up their *Brief Account*.

Another Surmise is, that where the *Brief Account* sets forth || the Prosecution without telling what the Demand was for, or for what the Suit was brought. That this is such a Specification

† Page 12. *Tho. Wright*. P. 27. *Stephen Arnold, Samuel Balfover, Geo. Turpin, Stephen Arnold and Samuel Balfover*, again. P. 27. *John Kilby*. P. 63. *Daniel Perry*. P. 77. *Richard Bockett*. P. 79. *Michael Trepas*. P. 94. *Joseph Wright*. P. 95. *Francis Bayes*. P. 101. *Austin Aëton, John Pilkington*. P. 151. *James Hobbs*. P. 169. *Thomas Benson, John Thackrah the Elder, John Thackrah the younger*. P. 170. *Thomas Smith, Joshua Pindar, Matthew Maire*.

|| Page 4. *Mary Cotterel*. P. 5. *Richard Stamp*. P. 19. *Gabriel Rundell*. P. 29. *James Taylor*. P. 36. *James Wood*. P. 39. *William King, John Horselman, John Robinson*. P. 73. *Tho. French, John Windford*. P. 124. *John Parker* are said to have been prosecuted in the *Exchequer*, without any Specification of the Cause of the Prosecution. P. 25. *John Huntington*, prosecuted in the Ecclesiastical Court for a Demand of 2*d*. P. 28. *Tho. Fry, Tho. Stamper* for 18*d*. each. P. 29. *Jane Small, Jacob Phillips*. P. 33. *Peter Macey*. P. 64. *Amos Bickham*. P. 71. *Samuel Hefford and his Son*. P. 124. *Isaac Lawrence*. P. 144. *John Astley*. P. 153. *John Gould*. P. 161. *John Corwell*— P. 31. *Anne Pengelly* was prosecuted in the Ecclesiastical Court at the Suit of *William Barton, Parson*, for 4*s*. demanded for his Maintenance. P. 104. *Edward Atwood* prosecuted in the Court of *Common-Pleas*.

cification of the Cause, as may satisfy those in eminent Stations, that the Demand was recoverable by those Acts. The great Contempt, that the *Quakers* have for the Persons, and Understanding of all those, who are not of their Persuasion is too visible: But sure they should have shewn more Regard to those in eminent Stations, for whose Satisfaction the *Brief Account* was published, to those Members of both Houses of Parliament, to whose Consideration it is said to be humbly submitted, than to offer to them these Cases, as Specifications of the Causes, and to imagine it sufficient to satisfy them. Egregious Triflers with the Legislature!

They complain, * that the Prosecutions were severe, attended with excessive Costs, and Charges, the Proceedings ruinous, and destructive, that they were Grievances, that required Redress, and apply this to the Cases in general; yet Numbers of Instances appear upon Examination, where the Persons, they specify, were either not prosecuted at all, or where the Prosecutions was not carried on, but dropt; no Bill filed, or at least no Answer given; and where the Clergyman was rather contented to lose his just Dues, than to proceed further: In those Cases can it be said with any Pretence to Veracity, that he has chosen a severe Method of Recovery; when the *Quaker* was at no Expence, no Trouble, but the Prosecutor lost both his Dues, and his Charges?

Those

* Preface, p. 9.

Those Demands are likewise surmised to be recoverable by those Acts, where from a Defect of Power in the Justices, either to compel the *Quaker* to answer, or the Witnesses to appear, they cannot determine for Want of Evidence. And this goes thro' great Part of the *Brief Account*; many Bills have been brought in the *Exchequer*, and Suits in the ecclesiastical Courts to discover, and ascertain the Quantity, and Value of the Demand. While there is not the least Pretence, that the *Quaker* settled, or offered to settle the Account, before the Suit was brought.

Their last Refuge is, that if few, or no Instances could be given, where the *Quaker* had been oppressed by any of the Clergy, " If they " have not *oppressed* by that *Power*, whereby " they *may oppress*, yet it is incumbent on the " Justice of the Legislature to restrain such " *oppressive Power*,"

I have already shewn, that the Laws, which defend the Property of the Clergy, are not oppressive, that they are necessary, where the others may prove ineffectual: But can they shew any Law, which may not be abused on one side, or the other? Or is there any thing, which is good, which may not be abused? And this would be an Argument for the Repeal of any Law; but to take away a Remedy from the injured, which has been, or may be abused by others, is punishing them for anothers Fault, or for having the Power of offending; this surely they will allow to be a greater Hardship, and

and Injustice, than punishing the faulty for an Example to others.

But upon such wild Surmises is grounded an Asperſion, moſt injurious to the Character of the Clergy, a Censure, as void of Truth, as it is of Charity, *viz.* That they have out of Malice, and ill Will to the *Quakers* choſe the ſeverer Methods, * that “ they have ſacrificed “ their own Quiet, and Intereſt to the Oppreſſion, and Ruin of their Neighbours.”

To vindicate their Characters, and clear them from this Asperſion, in itſelf ſcarce *credible*, have the ſeveral Examinations proceeded; and it has greatly conduced thereto, that the *Quakers* after a great Effuſion of publick Reproach at laſt ventured to deſcend to Particulars, and to lay before the Publick the Extract of ſome of thoſe pretended Records, which had paſſed, as authentick amongſt them, who alone had the Liberty of inſpecting them. The Meekneſs of their Spirit has appeared from their general Writings, their Truth from the unfair Representation of the Particulars, from the pretended Specifications of *Causes, Persons, Times, and Places*. And altho’ but few of the Clergy of the Dioceſe of *Canterbury* have been the Objects of their Malice in their *Brief Account*, yet as they ſuffer in their Properties by their Injuſtice, as the Reſpect due to them might be leſſened by an extenſive Charge, I have enquired into the Foundation of that Preſence of Conſcience in injuring them, and the Falſhood

* Preface to the *Brief Account*, p. 5.

Falshood of the general Charge of Oppression ;
and I shall now proceed to the particular Cases,
which will be found free from those odious
Colours, in which they have been represented.

The C A S E S.

IN the Diocese of *Canterbury*, which in
Compass comprehends one half of the Coun-
ty of *Kent*, there are about * 306 Parishes and
Chapelries. In the Deanry of *Shoreham* about
35 Parishes, and in the Diocese of *Rocheſter*
† 91 Parishes. And according to this Compu-
tation, there are no more than || 27 *Quakers*
charged in the *Brief Account* in the County of
Kent to have been prosecuted in the *Exchequer*,
N OF

* According to the Reverend Mr. *Lewis's* Account: *Brown Willis*, Esq; reckons but 275 Parishes, but the Person who gave him this Account has omitted several.

† Dr. *Chamberlain's* Present State of *Great Britain*.

|| In the Diocese of *Rocheſter*, *Geo. White*, *Eliz. Tyles*, and *Susan. Effex*, by *Robert Dence*, Impropiator. *James Collins*, *Richard Brookes*, *Jonathan Cornish*, *John Pennel*, *Tho. Hemings*, *Susannah Spencer*, *Anthony Neatby*, for Church Rates.

In the Diocese of *Canterbury*, *Jeremy Vine*, *John Colvil*, and *James Allay*, by the Widow and Executrix of an Impropiator. *John Love* by *Eliz. Roberts* Impropriatrix. *William Screen*, and *Henry Sims* for a Church Rate. *Daniel Perry*, *Amos Bickham*, by Parish Clerks for their Wages. *John Lowe, jun.* and *Eliz. Baker* by *Humphry Brailsford*, Clerk. *Stephen Girdler* by *Jonathan Maud*, Clerk. *Jeremy Vine*, *George Courthop*, *Richard Price*, or *Peirce*, and *John Colvil*, in one Bill by *Charles Buck*, Clerk. *John Woodland* by Dr. *Henry Archer*, Rector of *Mershham*.

In the Deanry of *Shoreham*, *Nath. Owen* the elder by *Hugh Owen*, Clerk.

or any of the Courts complain'd of, out of 439 Parishes in the Space of 40 Years. And as to some of those, tho' the Prosecutions were different, the Persons were the same.

Of these Prosecutions 10 were in the Diocese of *Rocheſter*, of which 3 were brought by an Impropiator, and 7 for Church Rates. So that no single Prosecution within all the said Time is charged on any of the Clergy of that Diocese.

In the Diocese of *Canterbury* are charged 16 Prosecutions, or rather Persons prosecuted: Of these one was by an Impropiatrix, 3 by the Executrix of a Lay Impropiator, 2 by Parish Clerks for their Wages, 2 for Church Rates, and 8 by four of the Clergy.

In the Deanry of *Shoreham*, a Peculiar subject to the Archbishop of *Canterbury*, one Prosecution by a Clergyman.

Of the 27 Persons prosecuted in the County of *Kent*, 16 were within 10 or 11 Years after the Acts 7 and 8 of King *William* the Third; and it may be presumed before the said Acts were generally known, or at least the Practice thereupon settled.

The Prosecutions by the Clergy were all in the Court of *Exchequer*; and out of 220 Incumbents, as the Number is computed to be in the Diocese of *Canterbury*, 4 only have sued there within 40 Years, and one in the Deanry of *Shoreham*.

Of these five Clergymen, four had been dead many Years before the Publication of the *Brief Account*,

Account, yet they are all cruelly * charged with having made the former expensive Ways of Proceeding their Choice, and to have acted upon other less justifiable *Motives*, than the mere Recovery of their Dues: that professing themselves to be *Ministers of the Gospel of Peace*, they by unnecessary, and expensive Law-Suits sacrificed their own Quiet, and Interest to the Oppression, and Ruin of their Neighbours.

The Veracity of which Charge will be the Subject of the following Examination; whence it will appear, that the Accusers have been regardless of their own Reputation, whilst they have been cruel, and unjust to them. But to descend to Particulars.

C A S E I.

The QUAKERS Charge.

Page 61, 62. [A] 1698. “ *John Love* the younger of *Canterbury* was prosecuted in the Exchequer for Tithes, at the Suit of *Humphry Brailsford*, Parson of the Parish called *All-Saints in Canterbury*.”

To which this Note [A] is subjoin'd.

[A] “ *John Love* was a poor Man, and had a Wife and four Children; the Demand for
N 2 “ Tithes

* Preface to the *Brief Account*, p. 5.

“ Tithe was 2*l.* 12*s.* for about five Years,
 “ (tho’ his Rent was but 5*l.* *per Annum*) was
 “ committed to *Canterbury Goal*, on the 27th
 “ of the Month call’d *February* 1708-9, and
 “ continued Prisoner about fourteen Months:
 “ after which the Parson releas’d him.”

*The Answer of the Reverend Mr. James
 Henstridge, the present Incumbent.*

I send you what Account I can give of *John Love*, who was here confined in Goal for not paying of Tithe: The Demand of which was very short of the Rent of the House he then lived in, it being always rented at 8*l.* *per Ann.* The Tithes for which, to the Minister are 16*s.* *per Annum*; The same Sum I do now receive. This Sum he was well able to pay, being reputed at that Time worth at least a Thousand Pounds, and has left his Wife, and Children in very good Circumstances, most of whom are very well disposed of. His Confinement in Goal was supposed to be very advantageous to him, being supported by many rich Presents from the *Friends*, during the Time of it, as I am informed by several Persons here, that know it to be so.

This Man’s Behaviour was very wild, and notorious for disturbing the Churches hereabout, wherein he would sometimes go, and speak aloud in the midst of the Congregation, at the Time of divine Service: especially, for his posting up seditious Libels about this City against

gainst the Government; for which he was imprison'd and put in the Pillory.

The Account which the Reverend Mr. Lewis of Margate, likewise gives, is as follows:

That he knew Mr *Brailsford* who was many Years minor Canon of *Christ-Church Canterbury*, and Rector of the united Parishes of *All-Saints*, and *St. Mildreds*. He was a quiet, and peaceable Man, and not of a Temper either to seek, or desire to be aveng'd of his Adversaries; he was well beloved, and respected; and had a general good Character for his Kindness, and Charity to the Poor, and distress'd; and upon his Removal from *Canterbury*, many Years before his Death, was much lamented.

I likewise remember *John Love*, and have often seen, and heard him in the Streets of *Canterbury* ranting, and making a Noise; and have read some of his written * Libels, which in his Fits he pasted up in publick Places.

When

* Mr. *Lewis* has met with an *Original* of one of his Libels, and for which he was indicted at the Sessions of the City of *Canterbury*, and tried before Mr. Recorder *Randolph* in 1702, and the Rhymes were found by the Jury to be a Libel, and he was sentenc'd to be pilloried.

The Libel is as follows:

O Chrifendom People, your Case is veri sad
Your bloody Acts the Lord abhors, and Deeds that are so bad
You do pretend to love the Lord and yet your Brethren hate
Therefore your Prayers are abhorr'd because they were Deceait
You Fast and Pray and desier you may
Your Bretherian to overcum

You

When Archbishop *Tenison* visited his Diocese in 1702, *Love* came into the Cathedral, when the Archbishop was confirming the Youth, and got within the Fence, or Rail at the Communion Table, and began to insult, and affront him; but was prevented from proceeding any further.

As to the Prosecution of *John Love* by Mr. *Brailsford* it was so early, as 1698, so soon after the Act, that I have thought, that he knew nothing of it, but left it to the Direction of his Attorney. This I think probable by his releasing *Love* after about 14 Months Imprisonment.

The Account from the Records of the Exchequer is as follows.

A Bill was brought in *Hillary* Term, the 10th and 11th of King *William* the Third, by *Humphry Brailsford* Parson of the Parish call'd *All-Saints* in *Canterbury*, against *John Love* for 2*l.* 12*s.* for five Years and a quarter's Tithe,

You kill and slay and take the Pray
And then thank God whann Morder dun.
Therefore you Hippocrites cease and go no farther
For God excepts of you no Thanks for Morthers

These Verses were occasion'd by a Fast, which had been solemnly observed, and a Thanksgiving by publick Authority for the Success of her Majesty's Arms in 1702, in the War against *France* and *Spain*.

In 1704, *Love* publish'd an Account of his Trial, under the Title of *The Cry of the Oppressed for Justice*, wherein he abused the Recorder, the Court, and the Jury; for which Libel he was indicted and convicted at the Assizes at *Maidstone*, and was again pilloried.

Tithe, at 2s. in the Pound, on a Rent of 5*l.* a Year.

It does not appear, that any Answer was put in to the Bill, so that the Imprisonment of *Love* arose from an *Attachment* for *his Contempt*, in not answering to the Bill.

The Sum for which this Suit was brought, being 2*l.* 12*s.* was certainly not recoverable by the first Act of the 7th and 8th of King *William* the Third: And if it shall be said, that it might have been recovered, but Mr *Brailsford's* Forbearance, whereby the Sum was increased, was owing to a malicious Intent of using a Method more severe; and that the Fact itself is a Proof thereof: He is dead, and cannot speak for himself, tho' his Character renders it incredible; yet let the Objectors consider, whether this uncharitable Suggestion may not with equal Reason from the same way of arguing return upon themselves, who have so long delay'd the Accusation, with Design (if the Fact alone will prove it) of inhumanly reflecting upon the Dead: But Part of this Demand seems to have become due before the Time, to which that Act extended.

As to the Affirmation Act, it may be doubted whether the Demand was recoverable thereby. Is the Tithe of the Rent of a House, a Great, or a Small Tithe? I have not met with it specified among either, and it rather seems to be a customary Payment, not comprehended within that Act, until it was by the 1st of King *George* I. long after this Suit was brought, extended

tended to any customary, or other Rights, Dues, or Payments belonging to any Church, &c.

But supposing it included in that Act, as the Justices could give no Costs, Was it reasonable, he should have been at the Expence of one Year's Dues to recover the others? Mr. *Lewis's* Conjecture is not improbable, that either he did not know of the Act, or left it to his Attorney. For as one Act had passed the same Sessions expressly relating to Tithes; as the Tithe of the other Act carried only the appointing the *Quakers* Affirmation instead of an Oath; How should one at a Distance so early, as this Suit began, have known without special Information, that it related to his Property? And had he known it, as the Words of the Act were doubtful, he might without Reflection leave it to his Attorney to proceed, as he thought fit, and in such Method, as was most secure for him.

It will not be presumed, that when upon any Prosecution the Country *Quaker* has asked the *Advice of Friends in London*, that they did not thereupon consult with, and leave it to the Direction of those, who, they might think, knew more of the Law than themselves; and no body can blame them for so doing; if it was only for their just Defence, not to find Methods of protracting the Cause, or evading the Force of the Law, in Opposition to a legal Demand. If so, Mr. *Brailsford* likewise will be blameless.

There

There is this further Reason for this Method of proceeding, That Mr. *Brailsford* could not ascertain the Value of his Demand without a Bill of Discovery: And this is apparent from the Account Mr. *Henstridge* gives, That the Demand was short of the Rent of the House, which was always, as he says, rented at 8*l.* a Year, after which Rate he receives. And altho' Mr. *Brailsford* thought it was only 5*l.* had he been capable of proving it, it would have shewn him, that it was more.

But this Cause was attended with a Hardship, they would lay to the Prosecutor's Charge: That *Love* suffer'd 14 Months Imprisonment. And to aggravate it, and move Compassion, he is represented, as a poor Man with a Wife, and 4 Children. But this Account of his Poverty appears to be false: He was not only well able to pay, but his Imprisonment was thought to be advantageous to him, (and would in another respect have been more so, had it continued longer) and his Family was left in good Circumstances. His Imprisonment was owing to his own Contempt, for not answering in a Court of Justice, a Point to which I have observed the Scruple of Conscience does not extend, but arises only from his Obstinacy. I mention this, that the *Quakers* may, if they think proper, again repeat that Reflection upon the Courts of Justice, that an *Odium* is brought upon them for not suffering their Authority to be contemned.

The only Imputation that remains on Mr. *Brailsford* is, that he afterwards without any Satisfaction either for his Dues, or Charges consented to his Discharge. This carries no Cruelty with it, unless according to their Way of arguing from the Fact, it was done with Design of bringing him to the Pillory.

It will not be material to take any further Notice of his other wild Behaviour, either of insulting the Archbishop in the Church, or libelling the Government, or of the Punishment he underwent; but only to observe, that they proceeded from the same Motions of the Spirit of Enthusiasm, from the same misguided Conscience, as the injuring Mr. *Brailsford* in his Property.

C A S E II.

The QUAKERS Charge.

Page 62—1698, “ *Elizabeth Baker* of
“ *Beakburn* Widow was prosecuted in the Ex-
“ *chequer* for Tithes, at the Suit of *Humphry*
“ *Brailsford* Parson in *Canterbury*.”

The Records of the *Exchequer* have been diligently searched, during the Reigns of King *William* and Queen *Anne*; and it does not appear, that any Bill was filed by *Humphry Brailsford* Clerk against *Elizabeth Baker*, for
Tithes

Tithes due to him, as Parson of any Parish in *Canterbury*, or any Decree made.

A strict Enquiry has also been made amongst several of Mr. *Brailsford's* Acquaintance, and others, who lived in the Neighbourhood; and no Information can be had, no Person, as far as they can find; remembers, or has heard of any Prosecution brought in any Court, by Mr. *Brailsford* against *Elizabeth Baker*.

I have chosen to mention this Case next, because it is charged in the same Year and upon the same Person. This is one of the many Instances, that have been given of Prosecutions stiled rigorous, and severe, tedious, and expensive, ruinous, and destructive, without the least Evidence whatsoever to support it, the Records of the Court, which is specified, are silent, the Suit unheard of in the Neighbourhood; the Party accused is in his Grave, and as far as negative Evidence can go, it is disproved.

Their common Answer in such a Case, as this, will not serve, *viz.* that no Record proves Nothing. The Proof of a direct Negative cannot be had; but it lies upon the Accuser to make good his Charge. If they have any Evidence then, let them produce it: If a Subpoena alone be sufficient Proof of a Prosecution, it must have come into the Possession of the Defendant, and may be shewn: If no Bill was filed, she might have had her Costs, it could not then be expensive, and severe: If a Bill was filed, and no Answer given, the Expence lay only on the Prosecutor; if an Answer was given,

let them shew, where it is to be found, what it contain'd; that it may appear, whether the Demand was recoverable in the more summary Way. If nothing of this can be shewn, how will they avoid the Charge of being false Accusers?

It is said * "The *Quakers* chose not this Method, but sought Redress without it," "that they are not to be blamed; for when the *Veracity* of a People is call'd in Question, "no Man concern'd can reasonably expect, "that they should be more tender of his Reputation, than their own." If they chose not this Method, upon what Account were these pretended Sufferings recorded? Was it not, that they should be produced to justify their Complaints? Can they support their Veracity, without Proof of their Assertions? or can they be tender of their own Reputation, whilst they unjustly asperse another's?

Mr. *Brailsford*, against whom this second Accusation is brought, appears by the Testimony of his Neighbours, to have been well beloved, and respected, he had a general good Character for his Kindness, and Charity to the Poor, and distressed, he was not of a Temper to seek, or to desire Revenge. In the Instance before given, he pitied even the Obstinacy of the Person, who had injur'd him, and altho' he was able to pay, discharged him with the Loss of his Debt, and Charges: and is gone to his Grave in Peace. Let them shew, that they had just Cause

* Preface to the *Brief Account*, p. 11.

Cause thus to disturb his Ashes, or they will hardly avoid the Censure, they have cast on him, of being cruel, and inhuman. If common Justice requires, that no Person should be condemn'd unheard, it must defend those, who are dead, and cannot be heard: And had the Compilers been governed by that Principle, they would not have inserted such Numbers of this Kind in their *Brief Account*.

C A S E III.

The QUAKERS Charge.

Page 62—1698. “ Stephen Girdler was
 “ prosecuted in the *Exchequer*, for a Demand
 “ of eight Pounds for small Tithes, at the Suit
 “ of *Jonathan Maud* Parson of *Tenderden*.”

*The Account given by the Reverend Mr. D'Lang-
 lie the present Vicar of Tenterden is, as
 follows.*

Jonathan Maud Vicar of *Tenterden* sued *Stephen Girdler* for Vicarial Tithes in the *Exchequer*, who was one of the People called *Quakers*, a *Felmonger*, *John Pay*, one of the same Denomination, and a *Tanner*, who now lives in the same House, which *Girdler* lived in, remembers the Prosecution, and observes, that *Mr. Maud* was a friendly, neighbourly
 Man,

Man, and averse to doing a hard Thing to any body; but that he was forced to use this Remedy for getting his Tithes of *Girdler*, as not knowing, as he believes, of an easier Way. The same Character of Mr. *Maud* is confirm'd by the ancient Inhabitants of the Parish, who knew, and remember him.

John Pay's Landlord pays the Tithes, about 19 s. a Year, and he pays so much more Rent.

The Account from the Records in the Exchequer is to the following Effect.

A Bill was brought in *Hillary* Term the 10th and 11th of King *William* the Third in the *Exchequer*, by *John Maud* Clerk (for so his Name appears to be, altho he is both by the *Quaker* and by Mr. *D'Langlie* call'd *Jonathan*) Vicar of *Tenterden* against *Stephen Girdler*, for Payment of all Manner of Tithes, except of Corn, for 15 Years amounting to 30 l. at least.

And the Vicar charges, that the Defendant doth insist on a Modus, or Payment of 8 d. per Acre, in lieu of Tithes due to the Vicar.

To this Bill *Stephen Girdler* put in two Answers, (Exceptions being taken to the first Answer) and thereby admits himself Tenant, or Occupier of the Lands containing about 50 Acres for 15 or 16 Years, at 46 l. a Year Rent; Parcel whereof, viz. nine or ten Acres of good Marsh Land of the yearly Value of 9 l. he believes

lieves, is out of the Parish, and that not above 40 Acres do lie within the Parish of *Tenterden*, and insists on a Modus of 15 s. a Year for all the yearly Tithes of the Lands in his Occupation. And saith, that the Defendant's Father, *George Girdler* was Tenant of the same Lands for 15 Years before, and paid but 15 s. a Year for the Tithes, which was after the Rate of 6 d. *per Acre*.

But it does not appear, that this Cause was ever brought to a Hearing, because no Decree is to be found.

Here is a third Accusation brought against one, who had, as we are informed, been dead about 30 Years; the *Motive* of his Actions are censured, of which if there was the least Doubt, he alone would be able to explain it: but this is so apparently false, that he happily wants no Justification. He is charged with suing for a Demand recoverable by the Acts of the 7th and 8th of King *William* the Third, when by his Bill he demands 30 l. The Title too was in Question, and that before the Suit began; the Defendant insisted on a Modus of 8 d. an Acre in lieu of Tithes. Thus it stands upon the Bill. Insufficient Answers were given in, and after Exceptions a second Answer still insufficient; for tho' he sets forth the Number of Acres, and the Value of the Land *per Acre*, he is silent, as to the Produce, from whence the Tithe must arise. But taking them, as they are; he insists on a Modus, if it were 15 s. a Year for the whole, he admits 15 or 16 Years

Years unpaid, which amounts to more than 10*l*. If 6*d.* *per* Acre, it still amounts to more. But here the Title to the Tithe was in Question, and whatever was the Event of this Suit, which does not appear, yet it is evident, that the pretended Modus did not take place, for the present Landlord by Composition pays 19*s.* a Year.

Was the Denial of the Tithe in this Case the Effect of the Prosecution? or has Care been taken to distinguish it by truly specifying the Sum? Under what Authority have they asserted, that the Demand was for 8*l.* to bring it under Value? Was it from their Records? Those are proved false by others more authentic. If their Guide has deceived them, they cannot attempt to support its Credit, but at the Expence of their own.

In the most favourable Light then, here is a Charge brought against one in his Grave, without the least Enquiry, whether true, or false. How easy had it been to have satisfy'd themselves: The Records of the Court of *Exchequer*, to which they refer, were open to them. A Friend of their own Denomination liv'd in the Place, nay in the very House, from whence the Complaint arose; had they enquired of him, he has more Honesty than to conceal, or disguise the Truth. Tho' of the same Denomination, he is of a different Persuasion, his Conscience would not permit him to abuse the Dead, to give him the Character of being cruel, and severe, whom he knew to be a friendly, and neighbourly Man, and averse to doing an
hard

hard thing to any ; he is tender of his own Reputation by being just to another's, and will not by Falshood support the pretended *Veracity* of the Compilers of the *Brief Account*. His Conscience does not oblige him to injure another in his Property, he pays honestly for what he enjoys, he hires the whole, whilst his Landlord pays for the Tithes. This in Justice to him " we not only acknowledge, but recommend " it to the Imitation of his Brethren."

C A S E IV.

The QUAKERS Charge.

Page 63.—1698. " *Nathanael Owen* the elder was prosecuted in the *Exchequer* for " Tithes, at the Suit of *Hugh Owen* Parson of " *Sevenoak*."

The Answer of the Reverend Mr. Hugh Owen,

Mr. *Hugh Owen* the Clergyman (who prosecuted *Nath. Owen* of *Sevenoak*) was my own Father, and as I understand, did proceed so far, as to have him committed to the County Prison for Non-payment of Tithes, where he remained thro' Obstinacy for some time ; but in what Court it was done, or how things ended I cannot learn. All that I know is, that he gave my Father a great deal of Trouble, for

P he

he never would pay any Tithes, unless compell'd by the Justices of the Peace.

This general Account from Mr. *Owen* of an Imprisonment, with which his Father was not charged, of a Suit, but in what Court, and what the Event was, he could not learn, occasioned a further Enquiry ; (as he did not appear to speak upon his own Knowledge) to learn, from whom he had heard it, and what was the Foundation of the Account he had given: To which he sent the following Answer.

“ I am very much ashamed, I have not answered your's before ; but an ill State of Health would not permit me.

“ You desire to know, whether the Information, that I had of *Nathaniel Owen's* Imprisonment, for Non-payment of Tithes, was only by Report, or from those, that remember'd it. I had it from Sir *Charles Farnaby* (who was then young) but tells me, he remember'd it.

“ I have since enquired of the oldest People of my Parish, and they say, they remember such a Thing, but how, they cannot tell.

“ One Mr. *Lambard* who is above 70 Years old, and is now a Justice in my Parish, tells me ; he can just remember it, *it was before the Revolution*, and he thinks the Prosecution was in *Doctors Commons* ; and that, upon the Statute of 32 *Hen. the VIII.* after Sentence definitively given, he was sent to Prison by the Justices, for his obstinate Refu-

“ fal

" fal of Payment. This is all the Informati-
 " on, I can at present give.

Sevenoaks, Sept. 22. 1741.

The Records in the *Exchequer* have likewise diligently been searched, and no Bill appears to have been filed in the Reigns of King *William*, or Queen *Anne* for Tithes by *Hugh Owen* (Parson or) Vicar of *Sevenoak* against *Nathaniel Owen* the elder, or any Proceedings had. He died about the Year 1716.

Has their *Veracity* here been justly call'd in Question, or not? Or have they been tender of their own Reputation, in thus accusing one, who had been 20 Years in his Grave? May it not rather be thought, that the Memory of it was hoped to have been buried with him? they then would have said, no Record proves Nothing. He has been accused of neglecting a Remedy easy, and secure, before that Remedy was in being, or even thought of; of chosing the severer Method, when no other could be chosen; but after it was provided, he took that Method, which they would prescribe. Were the Records of this Transaction entred from *Memoirs* when, and as it happen'd? And is the *Account* faithfully extracted from thence? they must either give up the Credit of their Record, or their own. And unless they can prove, what is by them asserted, the Charge of Falshood will here likewise rest upon them.

C A S E V.

The QUAKERS Charge.

Page 63—1706. “ *Jeremy Vine, George Courtbop, Richard Price, and John Colvil,*
 “ were prosecuted in the Exchequer at the Suit
 “ of * *Charles Buck* Vicar of *Cranbrook.*”

*To which this Note * is subjoin'd.*

* “ The Vicar died during the Prosecution,
 “ and by his Death the Suit ceased.”

The Answer of his Son the Reverend Mr.
Charles Buck.

Among some old Papers, I have found two original Subpœnas which shew, that *Jeremy Vine, Richard Price, George Courtbop, and George Colvil* were sued in November the 5th of *Queen Anne's* Reign, 1706, by my Father *Charles Buck*, then Vicar of *Cranbrook*—My Father died about the 15th of *February* following intestate, and my Mother *Elizabeth Buck* his Widow took Administration to him, under whom I had the Management of Affairs, and as I was then not unacquainted with the Tithe Book, as near as I can remember, the Arrears of Tithes due from the four *Quakers* aforesaid came to about 20*l.* which was all lost, by my Mother's not renewing the Suit, and the Papers, relating to the said Suit were destroy'd by her,

her, about *Christmas* 1707, when she removed from *Cranbrook* to *London*, as Things, that were of no further Use.

I come now to say, what I recollect of the Proceedings against either of the Persons forenamed.

I remember in 1696 when the Act of King *William* for the more easy Recovery of small Tithes began to be in Force, I was with my Father at *Cranbrook*, and that he caused several of his Parishioners, that were indebted to him for Tithes, to be summon'd to appear before the Justices at their sitting, which was in 1696, at the *George* Inn in *Cranbrook*. I remember particularly, I then saw *Jeremy Vine* there amongst others, that had been summon'd; and that Mr. *Gibbon* of *Rolvenden* was sitting Justice there—but the Justices had no Power by the Act than to retrospect for more, than 2 Years of Vicars Dues in Arrears. And *Jeremy Vine's* Debt being for more than 2 Years, nothing was, or could be done, unless my Father would have accepted of the two last Years Dues for his whole Debt from the said *Jeremy*, which he did not do. And so I am persuaded, the Debt went on increasing yearly from that Time to 1706, that the Suit was commenced against him. And his Arrear was (probably) for more than 20 Years.

As to *John Colvil* (according to the best of my Memory) he was the Son of *John Colvil Quaker*, Inhabitant in *Cranbrook*, when my Father became Vicar, viz. 1668. After his Death,

Death, *John* the Son succeeded him in the same Dwelling, so that the whole Debt of Father and Son conjunctly must be for no less than 38 Years. I think I am not mistaken, when I say nothing was paid by, or for both, or either of them: and the Son being left in good Circumstances, my Father might endeavour to recover of him by Law, what he could of the Debt.

George Court-hop was a Man well to pass, and able enough to have paid the Vicar, had he been willing. As to *Richard Price*, I neither remember the Man, nor any thing of him more than is aforesaid.

The Account from the Records in the Exchequer is, as follows.

In *Michaelmas* Term, 5^o *Annæ*, *Charles Buck* Clerk, Vicar of *Cranbrook*, instituted in 1668, exhibited his Bill in the *Exchequer*, against *George Court-hop*, *John Colvil*, *Jeremiah Vine*, and *Richard Peirce*, for minute and Vicarial Tithes.

As to *Court-hop*, from *Michaelmas* 1703, the Demand for his small Tithes is 5 *l*.

As to *Colvil*, from *Mich.* 1701, the Demand for his small Tithes is 5 *l*.

As to *Vine*, from *Mich.* 1696, the Demand for his small Tithes is 20 *l*.

As to *Peirce*, from *Mich.* 1696, the Demand for his small Tithes is 20 *l*.

These

These four Defendants put in their Answer, and *Courtboop* admits, that he possessed a House and Garden at 4*l.* a Year, and that his small Tithes amounted to no more than 3*s.* and insists on a Modus of 2*s.* a Year, and no more for his House in lieu of all small Tithes, but that the Vicar's Demand is 2*s.* 6*d.* a Year Modus for his House. That he possessed another House and 10 Acres of Land from *Mich.* 1703. to *Mich.* 1705. for which the small Tithes amounted to no more than 10*s.* and that the Modus for this House and Land is 6*s.* a Year, and no more.

Colvil says, that from *Lady-day* 1702 he occupied three Pieces of Land, containing four Acres of the yearly Value of 4*l.* and no more; and that this Land, and an House in Occupation of *Susannah Colvil* the Defendant's Mother, always paid together 4*s.* 4*d.* a Year in full for Vicarial Tithes, as a Modus, or Custom.

Vine says, he occupied a Farm, and 100 Acres of Land at 37*l.* a Year; and insists on a Modus, or Custom for all Vicarial Tithes, and Offerings for this Farm, and Lands at 9*s.* a Year, and no more.

Pierce says, he occupied a Farm, and 40 Acres of Land, of the yearly Value of 24*l.* and insists on a Modus, or Custom to pay for this Farm or Land 7*s.* 4*d.* a Year, for all Vicarial Tithes, and Offerings.

It does not appear, that this Cause was ever brought to a Hearing, and no Decree is to be found.

To these four Prosecutions the Answer is obvious, that the Vicar's Right was denied, and a particular Modus set up in every Case, and is thereby an express Exception to the Power of the Justices by both the Statutes.

That denying the Tithe was the Effect of the Prosecutions, when the Answers are upon their several Affirmations, I shall leave to themselves to say, tho' there may be too great Reason to believe, that Assertion to be true, when we find *John Colvil* affirm, that the Land occupied by him, and the House in the Occupation of his Mother *Susannah Colvil*, always paid together 4 s. 4 d. in full for Vicarial Tithes, as a Modus, or Custom; whereas according to Mr. *Buck's* Account, *John Colvil* the Son, and *John Colvil* the Father, to whom he succeeded in the same Dwelling, had paid *nothing* for about 38 Years before. This may be presum'd to have been the same Land, for which the Tithes were demanded; and altho' he says, the House was in the Occupation of his Mother, 'tis probable, he lived with her. The Demand was for *small* Tithes, which are not payable for a House. That no Tithes had been paid, will be further presumed from their Principles, that they could not in Conscience pay them. If they will say, the Father did pay, let them assign a Reason, why the Son did not: If the Father did not pay, the Son's Answer is untrue.

It cannot here be well insinuated, that the Prosecutor deferr'd these Suits to found "a colourable Pretence of *Necessity* for carrying on
" a ruinous,

“ a ruinous destructive Prosecution in the *Exchequer* ;” for Mr. *Buck*, soon after the Acts were passed, summoned several of his Parishioners before the Justice, particularly *Jeremy Vine*, but they were under the same Mistake, (if it be a Mistake) as several of the Clergy appear to have been, that they could have no Retrospect beyond 2 Years. They might probably be ignorant at that Time, that the Affirmation Act related to Tithes, or construed that Act with the Limitations included in the former, which passed the same Sessions: He too having applied to the Justices, tho’ ineffectually, might think he thereby lost the Benefit, and confined his Demands in the *Exchequer*, to what was due from 1696 which was 10 Years short of his Arrears.

However in these Cases, except what we have from the Records in the *Exchequer*, the Circumstances depend chiefly on Memory, and that at a great Distance of Time; which shews the Unreasonableness of bringing an Accusation, for what was done so long ago; especially, after the Death of Parties, whereby many Incidents either necessary, or proper for their Defence are unknown, or forgotten. It has been frequently insinuated in their Replies, how the Clergy might preserve their Characters, but it has been attended with the Loss of their Property; there is one Regulation I might recommend to them, if it may be consistent with their Principles, *viz.* that their *general Assembly* would pass an *Act of Limitation* of Scandal,
Q
and

and thereby direct, that no Accusation should be published by them against a Person, that is dead, and cannot defend himself; or at least, not after the Expiration of six Years from the Time of the Transaction. This seems not unreasonable, and had it been done sooner, it would have very much lessen'd their *Brief Account*.

I cannot pass over this Case, without taking Notice of the Note subjoin'd (and which in many other Instances occurs) that by the Death of the Vicar the Suit ceased. It will be difficult to find an Excuse for the Defendants, in not paying, what was then Due, either from the pretended Scruples of their own Conscience, or from any other Rule, which may be consistent with common Honesty. The Reason of their Scruples against Payment of Tithes is, because it is, as they call it, a forced Contribution for the Maintenance of Ministers, and other religious Uses. Did they imagine, that they should thereby maintain the Minister after he was dead? What is the religious Use? the Law has appropriated it to the Payment of the Debts of the Intestate, and the overplus to go to his Widow, and Children. The Widow took Administration; she is by Law obliged to charge this Debt in her Inventory, and it will be Assets in her Hands to satisfy Creditors: if any more be left, she may out of the Remainder be obliged to carry on the Suit, or the Loss will be her own, or fall upon her, and her Children. Thus they wrong the Widow, and the

the Fatherless, and say, that God has commanded it. When Conscience takes not Justice, as a Guide, into what Absurdities does it lead its pretended Votaries!

C A S E VI.

The QUAKERS Charge.

Page 64. [F] “ *Amos Bickham* of the Isle of *Thanet* was prosecuted in the *Ecclesiastical Court* at the Suit of *John Swain*, Clerk.”

To which this Note [F] is subjoin'd.

“ *Bickham* was sued for a Demand of 7 s. per Annum for one Farm, and 1 s. 6 d. for another. He constantly attending their Courts, prevented Excommunication for Contempt in not appearing: And his Adversary at last making Default in his own Appearance, the Suit was dismiss'd.”

The Account from the Reverend Mr. Richard Leightonhouse is, as follows.

Amos Bickham, a Quaker, was Tenant of two Farms in *Minster* in the Isle of *Thanet*, the Rent of the one 360 l. per Annum, the Rent of the other 40 l.

The Parish Clerk's Wages for the great Farm (according to ancient Custom) is 9 s. per Annum,

for the lesser Farm 1 s. 6 d. *Bickham* used these two Farms near 30 Years, and never paid any.

In the Year 1724, the Churchwarden in his Presentment at the Archbishop's Visitation presented *Bickham* for refusing Payment.

The *Quaker*, and Parish Clerk both appear'd at Court next Court Day.

As they rode home together, the *Quaker* told the Parish Clerk, he took it very ill of him, that he should give him so much Trouble ; and if he did not desist from his Prosecution, it was in his Power to put down his * School, and he would certainly do it.

Upon this Threatning the Parish Clerk appear'd no more at Court, and so this Suit ended.

This Account he had from *John Swain* himself, the Parish Clerk.

The Account from the Ecclesiastical Court at Canterbury is,

That Mr. *Norris* appear'd, as Proctor for *Amos Bickham* 30 July 1724, upon the Presentment ; and after the Cause had been continued four Court Days, Mr. *Bickham* was dismiss'd with Costs. But it does not appear, that *Bickham* himself attended those Courts.

I must

* There are 20 poor Boys taught to read and write, by the Parish Clerk, for which he has a Salary of 10 l. a Year ; 5 l. of it paid by the Reverend Mr. *Lewis* the Vicar, and 5 l. by the Consent of the Parishioners out of the poor Sels.

I must here leave it to the Reader, whether he did not by the *Charge* understand, that *Amos Bickham* was sued by *John Swain*, a Clergyman, in the Ecclesiastical Court for a Demand recoverable by the Acts 7 and 8 of King *William III.*

If he did, let them then repeat the Charge, with the Confirmation of it, and exult, that it has not been found false in every Particular, that it is not (as in many other Cases) a mere Fiction. And yet, if the Evidence, they have produced, has in Fact by an ambiguous Expression, contrary to the common, and usual Acceptation of the Word, Clerk, imposed on the Judgment of the Reader, it is a false Evidence.

That this was done designedly, may be infer'd from the Attempt to conceal it by the word Demand, which is not explain'd by the marginal Note. For altho' they with Assurance enough asserted all the Instances given by them, to have been a Specification of the Persons, and Causes, yet they have made choice of a general Word, from whence the Cause does not appear: Whereas had the Demand been specified to have been for Parish Clerk's Wages, they could have fix'd no Imputation thereby on the Clergy, nor could it have given * " Satisfaction to such Persons of eminent Stations, " who required a Specification," that it was recoverable by the said Acts.

Who it is, that has thus tamper'd with the Evidence, I shall not take upon myself to say: Whether

* Preface to the *Brief Account*, p. 6.

Whether the Fault was in the Compilers of the *Brief Account*; or in those, who made up the *Record*, or in the original Memoirs from whence it was entred: But from whencesoever it proceeds, it will affect the Credit of the *Brief Account*.

C A S E VII.

The QUAKERS Charge.

Page 65—1734. “ *John Woodland* of
“ *Mersham* was prosecuted in the *Exchequer*, at
“ the Suit of *Henry Archer* Vicar of *Mersham*.

*The Account given by Dr. Henry Archer, who
is Rector, not Vicar, of Mersham,
is as follows.*

Soon after I came to this Rectory, which had before been leased out, I was obliged to take my Tithes in Kind, and to fetch, what was set out, and what could not be set out, which makes a great Share (the greatest Part of the Parish being pasture Ground) must be accounted for. So that every one, who held Pasture Lands must necessarily have some Composition with me.

Woodland is a very rigid Quaker, come of a Family of such, who have been many Years in the Parish: he held Lands of his own, and rented about 70, or 80 Pounds a Year. I charged him

him among the rest for Tithes unpaid in Kind by the same Rule, I did the rest, 2 Guineas a Year; which Sum he made no Objection to at first, but left me to get it, as the Person who had a Lease of the Living before I came, always got his Dues from him, by Force.

I had so much Tenderness for this Man, that I resolved not to put him to the Expence of a Warrant every Year, which would come to near a fourth Part, of what I demanded. I did not therefore apply to the Justices till the End of two Years; who readily granted one, and were so civil to me, to let it go thro' my Hands to the Officer.

As soon as I had it, I apprised *Woodland* of it, and desired him to prevent its being served, which would save him the Expence. This Message wrought not upon him. I then gave the Warrant to the Officer, but whether it was served, or not, I know not, for I had no Return from it. And altho' I received the Tithes of Hay, and Corn, which were set out; and some Wool, and Lambs, but of neither, I believe to the full, I have never yet received one Farthing for the Others.

I rested to the End of four Years, and then used all the friendly Arguments I could, to persuade him to comply with me. I proposed to him once, without mentioning any thing of Tithes, that he would lend me eight, or ten Guineas; which was done purely for his sake, and because I thought he could have no Plea of Conscience against it. This he said, he would consider

consider of; but when I ask'd him about two Months after the Result of his Thoughts, he absolutely refused to do it; and then intimated, that I had charged him too much. As I never intended to deal hardly by him, I thought the only Way to wipe off this Charge from myself, would be to make him give an Account of his Tithes, and to content myself with, whatever should appear to be the Value of them.

Accordingly I was advised to employ an Attorney to call him to an Account in the *Exchequer*, which I thought might have been done in a short Way, and at a small Expence. My Bill has produced an Answer, and it has lain upon me since to go on, which I had no Inclination to do; especially since an Agent of *Woodland's* gave me repeated Assurances, that he would come, and make it up with me. This I waited for a long time, and am ready to do it, with any one, and upon any reasonable Terms, rather than to go thro' the Forms, and Expence of Law.

For no single Clergyman is a Match for an interested, and contentious *Quaker*, who, tho' he talks loud of Persecution, yet in many Cases feels nothing at all. For if I am rightly informed, if he be an interested Man amongst them, whenever he has a Demand made upon him for Tithes in a legal Way; he has no more to do, than to transmit his Case, represented in his own Way, to the *Friends* in *London*, who immediately undertake the Management of it; they have their Agents, and a common Fund ready,

ready, so that the Prosecuted is at no Charge; And so long, as their Obstinacy is thus back'd, and supported; and they can have the Credit of suffering for Conscience sake too, I fear there is no great likelihood of their quitting it.

I have Reason to think this to be *Woodland's* Case, because he told me once with great Unconcernedness, that he knew little of the matter; for the *whole Affair* was in the Hands of *Friends at London*, who managed such *Affairs* for them.

Thus the Matter rests at present. The Suggestions in my Bill (and I believe most of them well founded) have run up his Tithes to above double, what I charged him with, which it was utterly impossible for me to prove, without the Aid of a Commission of Enquiry, or some such Method, whereby *any Persons*, who are acquainted with his Lands, and Manner of stocking them, may be interrogated *upon Oath*, and I doubt not, but the Truth will then come out, and the true Value of my Tithes be known. I am sure, I have no Desire to go beyond that.

And tho' I have no Pleasure in the Thought of being entangled in Law, yet Matters are now gone to such a Length, that I cannot sit down under the Injuries, I yearly receive from this Man: For besides those specified in my Bill, there are seven Years more, for which he has come to no Reckoning with me; and two of them, wherein I have received no Tithes of any Sort whatsoever, or any thing in lieu of them: Besides, he has gone on to hire other
R Lands

Lands in the Parish, and consequently to injure me more, and more every Year. Nothing but compulsive Methods will ever bring this obstinate Man to any thing.

I have always treated him with great Temper; I have no Enmity towards him; nay so far from it, that he has for many Years *Rented* of me Part of my *Glebe*; and were we left Man to Man, and his *Conscience*, or *Obstinacy* not supported in the Manner above intimated, I don't doubt, but he would deal with me, as most of the same Sect do in the neighbouring Parishes, who, as far as I can learn, pay their Tithes pretty orderly.

The Account from the Records in the *Exchequer* is, That in *Michaelmas* Term, 8 *Geo. II.* a Bill was filed by *Henry Archer*, D. D. as Rector of *Mersham*, against *John Woodland* for an Account of Tithes of Wood, Hemp, and Flax, Milk, Calves, and several other Species of small Tithes from *Mich. 1730*, to *Mich. 1734*, and he prays a Satisfaction, or Compensation for them.

To this Bill the Defendant *Woodland* put in an Answer the 28th of *January 1735*, admits, that he occupied Lands of his own to the Value of 30 Pounds a Year, consisting of Meadow, an Orchard, some Garden Ground and pasture Land, that he rented to the Value of 39 Pounds a Year meadow, arable, and pasture Lands. That the Complainant had taken the Tithe in Kind of Hay, and Corn; and
hath

hath not therefore demanded the same by his Bill; that he had likewise received, and accepted the Number of Fleeces, and Lambs therein mentioned, which he believes was the full. As to the other Species he sets forth the Quantity, and Value thereof, particularly Milk, Calves, Hemp and Flax, Wood burnt in the House, and some others; but denies, that the Complainant has any Right to the Tithe of Orchard - Fruit, Honey, Poultry, and Eggs eat in his Family. And concludes generally.

No further Proceedings appear from the Records.

This is the single Instance, within the Bounds of this Enquiry, of any Complaint made against any Clergyman living at the Time of the Charge. The Motives of Dr. *Archer's* bringing this Suit in the *Exchequer* appear from his own Account, free from those odious Reflections contain'd in the general Charge. The Doctor was collated to this Rectory the 8th of *October* 1726, so that he had for 8 Years together been deprived of many of his Dues before he took this Method, and as his Bill has no Retrospect for the first 4 Years, those may be entirely lost. His Tenderneſs, and Forbearance, his first attempting to obtain them by the Justices Warrant, shew it was not his Choice. He was forced into a Law-suit to justify himself, that he had not charged too much, not being able without the Aid of a judicial Enquiry to ascertain the Quantity, and Value of

his Demands; and as the *Quaker* has since denied his Right to a Part of those Tithes, it is evident, they were not recoverable under the Powers given by the Statutes of the 7th, and 8th of King *William* the Third.

But what Effect has his Indulgence, and Forbearance had with a rigid *Quaker*? It has only strengthen'd his Obstinacy; and he, who at first paid his great Tithes, for the Refusal of which he would have been liable to treble Value; who paid his Tithes of Wool, and Lamb so far, as they could be discovered, and conscientiously refused to pay only, what he could conceal, at last refuses all, hires more Land, and takes the Tithe to himself.

It will be difficult to account for this upon any other Foundation, than that, which the Doctor intimates; that the Defendant is at no Charge, but is supported therein out of the common Stock, and the Trouble of the Management of it left to others. Perhaps, his calling it a common Fund may admit of a Cavil in the Answer, as it seems to imply something, which brings in an Income appropriated to that Purpose, but whether they have a Fund, or the Expence be born out of the Contributions made for Charities, or Sufferings left to the Discretion of the *Friends* in the Application of it, it makes no Difference; and *Woodland* has himself confessed, that he knew little of the Matter, that the *whole Affair* was in the Hands of *Friends* in *London*, who managed *such Affairs* for them.

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When the Vindication of this particular Charge made against Dr. *Archer* shall be published ; it will be expected, that they should explain, and justify, if they can, their thus supporting, and maintaining Suits against the Clergy ; or shew how far, they are innocently concern'd therein ; that they should shew, that this their Friend has really suffered, and that such his Suffering was for Conscience Sake.

It cannot be pretended, that he was at first terrified into a Compliance contrary to his Conscience by the Fear of a Suit ; for the Payment of great Tithes, and of Wool, and Lamb were voluntary, and he was not afraid to refuse Payment for the rest ; or to compensate the Value of them by lending, whereas had he been terrified, he would have paid the whole, as well as a Part.

Let them reconcile the different Principles of Conscience, upon which he acted, or him with Conscience. For the Rule of Conscience in this Matter laid down by them is, that a settled Maintenance of Ministers is contrary to the Gospel, and therefore, that the *Quakers* conscientiously refuse to contribute towards it : And yet *Woodland* a rigid *Quaker*, come of a Family of such, did not scruple to hire the Rectors Glebe, and his Conscience permitted him to pay Rent for it towards his Maintenance.

The Glebe is undoubtedly Part of the settled Maintenance of the Minister, it comes to him by Succession, and not by paternal Inheritance,
or

or Purchase ; his Title thereto is exactly the same with his Title to the Tithes, by Collation. It was likewise originally given by the Owner of the Land, and was probably Part of the Mannor, and that in the Time of Popery, but confirm'd by Law, and immemorial Possession ; and his Conscience must be very subtle, that can make a Distinction between them. How can they reconcile such Conscience with itself, which may permit him to pay Rent for the Glebe, yet refuse his Tithes ; or permit him to pay great Tithes, and not to pay small ? As to the Glebe it may probably be thus ; That upon hiring it he agreed to pay the Rent, and is bound by his own Consent ; whereas the other is forced by Law, and they only conscientiously refuse all *forced Contributions* towards the Minister's Maintenance. If then he would consent, or agree to pay his Tithe, why will not his Conscience permit him ? for there is no Difference between an Obligation arising from Contract, which has its binding Force from the Law, or an Obligation immediate by Law. If his own Agreement can make it lawful, or unlawful in Conscience, then Conscience depends upon his Will, and not his Will upon Conscience.

I have now gone thro' the seven Cases, which are all that the Clergy stand charged with in the Diocese of *Canterbury*, and in the whole County of *Kent* ; an inconsiderable Number in so large a District in the Space of

40 Years, altho' the more severe Method of proceeding had apparently been made the Choice, when the Law left such Choice to them, and the Parties complaining might, and ought to have prevented it by a voluntary Compliance. But upon Examination it has been found, that the Prosecutors are justifiable against every Particular of the Charge.

When the first Examination of this *Brief Account* was publish'd, which * consisted of a plain Narrative of the several Facts, set in so just, so clear, so strong a Light, the Falshood of the Accusation appear'd so glaring, that it was by many thought needless to go into a further Enquiry. For it is an Inference, that every Reader of common Understanding must naturally make, and which a Writer of their own Denomination in Defence of *Quakerism* admits, † "That if any Relator of a Matter of Fact be detected of Falshood in any Circumstance, no Credit is to be given to the rest, till he can clear himself of that Imputation."

This they have not done ; but by evading the Matter of Fact, catching at little immaterial Circumstances, to divert their Reader's Attention from the principal Point, throwing the Proof of a Negative on the Party accused, and begging the Question, viz. That they suffered purely for Conscience sake, denying the Right of

* Diocese of London.

* *Vindiciæ Veritatis*, p. 43. Publish'd by Daniel Phillips, 1703.

of Tithes, and from thence calumniating the Clergy whose Names had been mentioned, and casting odious Reflections on the Laws, by which they were compell'd to pay; at last upon further Detections they have been forced, in order to avoid that general Imputation, and save the Credit of the unexamined Part, to assert, That each Prosecution is a single independent Fact, the Truth, or Falshood of which has no Relation to the rest.

In the foregoing Examination I have shewn the Weakness of this Excuse, and have enquired into the Foundation of their pretended Scruples, and shewn, that Conscience is therein no ways concerned: I have likewise set forth the Nature of the Property of the Clergy, and the Establishment of Tithes by the known Laws of the Land: I have shewn the Insufficiency of those Acts to secure that Property, to which *They* would have the Clergy confined; and the Justice of those Laws, which *They* abuse: And to strengthen the Presumption of the Falshood of the Remainder of their *Brief Account* from further Facts, I have particularly examined the foregoing Cases, which I shall set in a single View, to shew, that the Charge is false in every Instance, either as to the Fact itself, or the Circumstances attending it.

CASE I. The Prosecution of *John Love* the younger in the *Exchequer* by the Reverend *Humphry Brailsford*, Clerk.

The

The Cause was for the Tithe of an House. This being a customary Payment, does not seem to be comprehended in either of the Acts 7, and 8 *William III.* Neither could the Value of the Demand be ascertained without a Bill of Discovery, and was therefore not recoverable by those Acts. The *Quaker* refused to answer, and was imprison'd for Contempt; but was afterwards discharged by the Prosecutor with the Loss of his Dues, and Charges.

CASE 2. *Elizabeth Baker* is charged to have been prosecuted in the *Exchequer* by the same Person.

No Proceedings can be found, or heard of, so that, as far as appears, the whole is false.

CASE 3. The Prosecution of *Stephen Girdler* in the *Exchequer* by *John Maud Clerk*.

The Sum demanded was above 10 *l.* and not recoverable by those Acts, and the Title to the Tithe was likewise in Question.

CASE 4. The Prosecution of *Nathaniel Owen* in the *Exchequer* by the Reverend Mr. *Hugh Owen*.

The only Prosecution that appears, or of which any Account can be got, was before the Revolution, and could not be recovered by Acts not then made, or thought on.

C A S E 5. The *Quakers* charge the Prosecution of 4 Persons in the *Exchequer* by *Charles Buck* Vicar.

They were all comprehended in the same Bill, and the Title to the Tithe demanded was upon their Affirmation denied by every one of them, which was not determinable under those Acts.

The Vicar died, pending the Suit, and his Administratrix lost the whole.

C A S E 6. *Amos Bickham* is said to have been prosecuted by *John Swain* Clerk.

John Swain was only a Parish Clerk, and sued for his Wages as such; which were not recoverable by the Acts 7th and 8th of King *William* the Third. And the *Quaker* was dismissed from the Suit with Costs.

C A S E 7. *John Woodland* prosecuted in the *Exchequer* by Dr. *Henry Archer*.

The Prosecutor could not get an Account of his Tithes without a Bill of Discovery, and for that Reason they were not recoverable by the Acts of the 7th, and 8th of King *William* the Third. And the *Quaker* denied the Right to Part of the Tithes in Question.

The Compilers of the *Brief Account*, and the Writers in Support of it, have taken upon them to speak in the Name of the *People* call'd *Quakers*, in general; and they must excuse me if

if I make use of the same Denomination: altho' I doubt not but many of them (and some Instances thereof have been found) have a better Sense of Justice, and common Honesty than the Principles, which have been laid down, and which I have examin'd, are consistent with. They have the Freedom of serving God in their own Way: But their Duty toward their Neighbour must be governed by the Laws of the Land; those Laws, altho' human Ordinances, they must obey, not only for Wrath, but for Conscience sake; and those, who do, are no ways the Subject of my Animadversions.

But how egregiously the Compilers of that Account have in the Preface to it misrepresented their Case, will appear from the following Observations, which arise from the Examinations I have now gone thro', and with which I shall conclude; only taking Notice, that when an * Act of Toleration was at last obtain'd in Scotland for those of the Episcopal Communion, it was with the same proviso, to which the Quakers are made subject, viz. "not to exempt them from paying Tithes, or any other parochial Duties to the Church, or Minister of the Parish to which they belong, or in which they reside." The common Course of the Law hath not *there* been altered upon their Account, to make the Recovery thereof precarious; and yet the Refusal of Payment might in them bear

at least, as plausible a Pretence of Conscience, as in these.

The CONCLUSION.

THAT the People called * *Quakers* profess no *Scruple* in taking to their own Use the legal *Property* of the *Clergy*, and upon the Plea of *Conscience* alone set up a Title to *their Estates*, is well known.

This their Plea of *Conscience*, we conceive, will appear to be ill grounded to such, as shall duly consider, the † *Command* of God in the Decalogue, the ‡ *Nature* of *Gospel Liberty*, the || *Precept* of Christ, and his Apostles, the first ∴ *Principles* of natural Justice, the most ancient ** *Laws* of the Land, derived down to us thro' successive Ages, confirm'd, and enforced by

* Preface, p. 3.

† Exod. xx. 17. Deut. v. 21. — *Neither shalt thou covet—any thing that is thy Neighbour's.*

‡ 1 Pet. ii. 16. *As Free, and not using your Liberty for a Cloke of Malicioufness.*

|| 1 Cor. ix. 14. *Even so hath the Lord ordained, that they which preach the Gospel, should live of the Gospel.* — St. Paul to the Romans, chap. xiii. 7. *Render therefore to all their Dues.*

∴ Puffend. de Officio Hominis & Civis juxta Legem naturalem, Lib. 1. c. 2. § 12. *Quando Justitia personæ tribuitur, solet vulgo definiri, quod sit Constans, & perpetua Voluntas suam cuique tribuendi.* Grotius de Jure Belli & Pacis, Lib. 2. c. 17. § 2.

** Lambard's Archaionomia, p. 139. *Laws of Edw. Confessor, of William the Conq. p. 63, 172. Magna Charta, chap. 1. 1 Will. and Mary, chap. 6. § 3. chap. 18. §. 6. 5 Anna, chap. 5.*

by the Legislature upon our early † Reformation from Popery, concurring to affect them not only with *Novelty*, and *Singularity*, but with *Injustice*, and *Disobedience* herein.

The * Prosecutions, Excommunications, Attachments, Writs of Rebellion, Imprisonments, Sequestrations, and Seizures of Goods, which they have undergone for depriving the Clergy of their Estates, and detaining what was not their own, are convincing Proofs, how far a misguided Conscience will carry them, in Opposition to those Laws of the Land, which guard the Property of the Subject.

And this not only, as it relates to the Clergy, but under the Pretence of a *conscientious Scruple* against all *forced* Contribution for *Maintenance* of *Ministers*, and other *Religious Uses*, they defraud the *Lay Impropiator* of his paternal Inheritance, deprive the Widow, and Fatherless of their Right, and bear their *Testimony* against Church Rates, as abolished by the *Gospel*.

They have attempted to bring an *Odium* on the Courts of Justice, for acting with *Impartiality*, and enforcing their Process and Decrees, in the usual Manner in common Cases of *Meum*, and *Tuum*: And to cover their *Contempt*, stile those Laws, they disobey, *dishonourably severe*.

|| Those, who make this Way of proceeding their Choice, seem to be left without Excuse, and to act upon other less justifiable *Motives*

† 2 and 3 *Edw.* 6.

* Preface, p. 4.

|| Preface, p. 5.

tives than a mere *Religious Scruple* : While such *wild Notions*, as these evidently appear to proceed from *Pride*, and *Covetousness*, not from *Purity*, and *Conscience*.

Proceedings of this Kind, whereby they deprive the Clergy of their civil Rights, and Property only, because they differ from them in their *Religious Principles*, do so nearly resemble *Persecutions*, that he who suffers by them, can scarce discern, wherein they differ.

'Tis * to to be lamented, that the great Blessing of *Liberty of Conscience*, and the Benefit of the *Toleration* so fully enjoy'd by them under the *Justice*, and *Lenity* of the *present Administration*, should be so frequently abused by such Proceedings : And indeed,

That Men professing themselves to be a *meek, quiet, and peaceable People* should be at so great an Expence, and take such Pains, only to render the Power of the Law, in supporting the Subject, ineffectual ; and should sacrifice their own *Quiet*, and *Interest* to distress their Neighbour, and to deprive him of his necessary Support, and Maintenance, has been Matter of Surprise to generous Minds : Surely they know not, what *Spirit* they are of !

Their † *Brief Account* presented to the *Consideration* of the *Members* of both *Houses* of *Parliament*, having in many Parts thereof undergone an *Examination*, has been found to consist of many *general Charges* without Specifications

* Preface, p. 5.

† Preface, p. 6, 7.

cifications of Facts, and Causes; the Number augmented, in order to seem considerable, and by far the greatest Part thereof made up with Suits brought by Lay Impropriators, and for Church Rates, which come not within the Reasons assign'd for their pretended *Scruples*; the Remainder being chiefly Suits for Demands not included in, or above the limited Value, and where the Title was in Question, or otherwise not recoverable by the Acts of the 7th, and 8th of King *William* the Third; *Accusations* of Persons, who have been *long dead*, and cannot defend themselves; and *false Representations* of those, who were living.

And it is observable, that almost every Instance, they have given of their Sufferings, is an Instance only of their *Oppression*, and *Injustice*: And what will doubtless appear shocking to most Readers, they have frequently expended out of their own Substance, or the publick Contributions Ten, Twenty, or Thirty Pounds, only to distress the injured Claimant, and have chosen Imprisonment, rather than yield to the Payment of his just Dues.

Their * Example, if followed by others, would not only be ruinous to private Families, but would nearly affect the publick Good; would be destructive of all Trade, and Commerce, and tend to the Subversion of Property. For how could, not only Clergyman, but the *Landlord* subsist? How could they pay their Taxes to the Government, or just Debts to
their

* Preface, p. 8.

their Creditors, if when they demanded the Income of their own Estates, it were sufficient for the Tenant, or Occupier to say, Friend, I am not of thy Persuasion, and I cannot in *Conscience* contribute towards thy *Maintenance*? If when the *Farmer*, the *Tradesman*, the *Merchant* demanded their just Debts, such Answer would suffice, there must be a Stagnation of Commerce; and how could they maintain their Families, or pay their own Debts? Industry would be vain, if they were all to be confin'd to the narrow and insufficient Remedy of a Justice's Warrant; or thro' the Obstinacy of their Debtors, their whole Income were to be expended in recovering, even the minutest Part; whilst the unjust Detainer, who thus sweeps away their Estate, seeks all the Delays, and Subterfuges, that Fraud, and Falshood can invent, creates all the Expence, that either his own Fortune, or his Friends *Advice*, and *Maintenance* can enable him; disputes his Title only, because he is sued; and when at last the Law has interposed it's Authority, altho' able to pay, shall rather choose to be lock'd up in Prison, than to comply with its just Decrees.

How would the *Quakers* complain, if their Property were upon Account of their Religion to be detained without Redress? If they were in all Cases to be confined to a Justice's Warrant, and censured, as cruel, and inhuman; when by the common Course of Justice they attempt to regain it? How should Justice itself take place, if those who offend the Law
might

might be allowed to charge the Prosecutor with Cruelty, and condemn their Judge as severe, only for condemning them according to the Law?

* Would not the Testimony of a good Conscience be more visible, if it was seasonably applied by her Reproofs to check, not to encourage the *Fomenters* of such *unchristian* Practices, for their manifest Breach of that great Rule of *Morality*, enjoined by Christ himself, *Whatsoever you would, that Men should do unto you, do ye even so to them?*

† If any Person shall think his Character may be affected by his Name being mentioned in their *Collection*, let him but consider, that the Compilers of the *Brief Account* did it without further Enquiry, upon the Credit of Memoirs, taken from the sole Relation of Those, who thought, they did God good Service in *injuring* him: And that when the *Veracity* of a People is become *proverbial*, no Man can reasonably expect, that they should be more tender of his Reputation, than they have been of their own.

The many, and peculiar Indulgences granted to the *Quakers*, are so far from satisfying them, that upon every Difficulty, where it may be in their Power to distress the Administration, they have never failed soliciting to procure further: Whilst the Scruples of their Conscience are so various, and extensive, that

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whatever

* Preface, p. 9.

† Preface, p. 10, 11.

whatever has been, or can be granted, will not suffice, till the Security of the State, the Property of the Clergy, and the Laws of the Land are made to give way to their Caprice, || whilst their Contempt of the Courts of Justice leaves no room to expect, that the *voluntary Amendment* of their Conduct will ever make a *legal Compulsion* unnecessary.

† The List of Imprisonments annex'd to their *Brief Account* seems only a Muster-Roll of their *forlorn Hope*, of those, whom they have led on to the Attack of the Property of the Clergy, with an ultimate View of acquiring the full Possession thereof to themselves.

Yet these Imprisonments which they complain of, were made their Choice, rather than to pay their just Debts, whilst, like counterfeit Cripples, they importunately ask Relief, and seek to move Compassion by these *Sores* of their own making.

Injuring the Living, and aspersing the Dead, Practices so disagreeable to *human Society*, are far from the *Nature of true Religion*; nor is it easy to reconcile with the Principles of *Christian Charity*, the great *Uneasiness* some Men have discover'd at the *Apprehensions* of being restricted to *common Honesty*.

|| Preface, p. 12.

Brief Account, p. 189.

† *Brief Account*, p. 185.

ERRATA.

Page 3. line 17. for yet read *that*. P. 4. l. 11. for *forca*
r. *inforce*. P. 14. l. 15. for *in* r. *on*. P. 15. l. 1. for
use r. *leave*. P. 17. l. 24. for *there inseperate* r. *therein se-*
parate. P. 37. l. 19. for *uot* r. *not*. P. 41. l. 24. for *they*
r. *be*. P. 45. for *destraining* r. *distraining*. P. 61. l. 28. for
ours r. *Courts*. P. 65. l. 8. for *encourage* r. *may encourage*.
P. 72. l. 6. for *demonstrte* r. *demonstrate*. P. 89. l. 10. for
r. 98. P. 96. l. 11. for *Tithe* r. *Title*. P. 109. l. 19.
de than. P. 112. l. 6. for *Tithe* r. *Title*.

[The following text is mirrored bleed-through from the reverse side of the page:]

P. 100. I. 10. for P. 99. I. 10.
P. 99. I. 8. for encourage & many encourage
P. 61. I. 28. for
P. 57. I. 10. for was & not. P. 41. I. 24. for who
P. 17. I. 24. for there is no more to therein &
P. 14. I. 15. for in & en. P. 15. I. 1. for
P. 4. I. 11. for